

Pros

Restricted

C. Blachsch
#194

HEADQUARTERS EIGHTH ARMY
United States Army
Office of the Staff Judge Advocate

Yokohama, Japan
13 September 1948

UNITED STATES OF AMERICA VS YUZURU NOGUCHI
UNITED STATES OF AMERICA VS TAKEO TERADA
UNITED STATES OF AMERICA VS MASATARO TAKUMA
UNITED STATES OF AMERICA VS TOKIO WATANABE
UNITED STATES OF AMERICA VS YOHACHI KUROKAWA
UNITED STATES OF AMERICA VS KAJURO OKAZAKI
UNITED STATES OF AMERICA VS SHIGERU ARIIZUMI
UNITED STATES OF AMERICA VS TATSUMI USHIHARA
UNITED STATES OF AMERICA VS GORO UCHIDA
UNITED STATES OF AMERICA VS ISAMU GOTO
UNITED STATES OF AMERICA VS YASUTOSI MIZUGUCHI
UNITED STATES OF AMERICA VS RINSABURO SHITO

Review of the Staff Judge Advocate

1. The attached record of trial of Yuzuru Noguchi et al at Yokohama, Japan, from 4 June 1947 to 15 September 1947, by a Military Commission appointed by paragraph 1, Special Orders No. 125, Headquarters Eighth Army, United States Army, dated 29 May 1947, having been referred to the Staff Judge Advocate, this review thereof is submitted to the Commanding General.

Personal Data Concerning Accused

NAME: Yuzuru Noguchi
AGE: 62
RESIDENCE: #639, Kamitabuse-Machi,
Saga-Shi, Saga Prefecture
MARITAL STATUS: Married
RELATIVES: Wife, age 53; two children,
ages 26, 24; sister
EDUCATION: Graduate Japanese Military
Academy
VOCATION: Army
MILITARY CAREER: Japanese Army 1905-
1936. Retired as Colonel; recalled
1941 until end of war (Col.).

DATE OF CONFINEMENT: 8 Oct 1945
DATE OF ARRAIGNMENT: 5 June 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 4 June 1947 to
15 Sept 1947
DATE OF SENTENCE: 15 Sept 1947
SENTENCE: CHL for twenty-two (22)
years
CLEMENCY RECOMMENDED BY COMMISSION:
No

NAME: Takeo Terada
AGE: 42
RESIDENCE: #969 Otsu, Minami
Kushiyama-Mura, Minami Takaki-Gun,
Nagasaki Prefecture
MARITAL STATUS: Married
RELATIVES: Wife, age 41; six children,
ages 16, 14, 12, 10, 7, 4; father,
age 71; mother, age 70
EDUCATION: Graduate Agricultural
School 1924
VOCATION: Farming, policeman, school
teacher
MILITARY CAREER: Japanese Army 1926
to 1940. Recalled Aug 1942 until
end of war (Capt.).

DATE OF CONFINEMENT: 8 Oct 1945
DATE OF ARRAIGNMENT: 5 June 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 4 June 1947 to
15 Sept 1947
DATE OF SENTENCE: 15 Sept 1947
SENTENCE: CHL for thirty-seven (37)
years
CLEMENCY RECOMMENDED BY COMMISSION:
No

Restricted

Restricted

NAME: Masataro Takuma
AGE: 27
RESIDENCE: #143 Okamoto, Kuwayama-
Mura, Mitoyo-Gun, Kagawa Prefecture
MARITAL STATUS: Single
RELATIVES: Mother, age 63; two
brothers, ages 40, 35; five sisters,
ages 37, 32, 30, 25, 23
EDUCATION: Graduated Mukden Technical
College, Manchuria, 1942
VOCATION: None
MILITARY CAREER: Japanese Army 1942
to end of war (Sgt.).

DATE OF CONFINEMENT: 12 Oct 1945
DATE OF ARRAIGNMENT: 5 June 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 4 June 1947 to
15 Sept 1947
DATE OF SENTENCE: 15 Sept 1947
SENTENCE: CHL for thirty-one (31)
years
CLEMENCY RECOMMENDED BY COMMISSION:
No

NAME: Tokio Watanabe
AGE: 37
RESIDENCE: #1137 Tabuchi, Arato-
Mura, Atetsu-Gun, Okayama Prefecture
MARITAL STATUS: Married
RELATIVES: Wife, age 34; four children,
ages 10, 8, 5, 1; father, age 70;
mother, age 63; brother, age 28;
sister, age 40
EDUCATION: Graduate of Taikyu Medical
College, 1936
VOCATION: Doctor
MILITARY CAREER: Japanese Army from
10 Oct 1941 to 13 Nov 1941 (Sup. Pvt.)

DATE OF CONFINEMENT: 3 Apr 1947
DATE OF ARRAIGNMENT: 5 June 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 4 June 1947 to
15 Sept 1947
DATE OF SENTENCE: 15 Sept 1947
SENTENCE: CHL for twelve (12) years
CLEMENCY RECOMMENDED BY COMMISSION:
No

NAME: Yohachi Kurokawa
AGE: 43
RESIDENCE: #467 Tokuno, Tokuda-Mura,
Shuso-Gun, Ehime Prefecture
MARITAL STATUS: Married
RELATIVES: Wife, age 38; two children,
ages 15, 13; mother, age 72; sister,
age 51
EDUCATION: Graduate Agricultural
School 1928
VOCATION: School teacher
MILITARY CAREER: Japanese Army 1924
to 1926; recalled 1943 until end of
war (1st Lt.)

DATE OF CONFINEMENT: 12 Oct 1945
DATE OF ARRAIGNMENT: 5 June 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 4 June 1947 to
15 Sept 1947
DATE OF SENTENCE: 15 Sept 1947
SENTENCE: CHL for two (2) years
CLEMENCY RECOMMENDED BY COMMISSION:
No

NAME: Kojuro Okazaki
AGE: 60
RESIDENCE: #432 Dainichi Cho, Nagato,
Himiji City, Hyogo Prefecture
MARITAL STATUS: Married
RELATIVES: Wife, age 53; two sisters,
ages 70, 54
EDUCATION: Graduate Primary School
VOCATION: Farming
MILITARY CAREER: Japanese Army, 1906
to end of war (Lt. Col.)

DATE OF CONFINEMENT: 18 Sept 1945
DATE OF ARRAIGNMENT: 5 June 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 4 June 1947 to
15 Sept 1947
DATE OF SENTENCE: 15 Sept 1947
SENTENCE: CHL for twenty (20) years
CLEMENCY RECOMMENDED BY COMMISSION:
No

Restricted

Restricted

NAME: Shigeru Arizumi ✓
AGE: 47
RESIDENCE: #1636 Amiya, Fujimiya City,
Shizuoka Prefecture
MARITAL STATUS: Married
RELATIVES: Wife, age 35; five children,
ages 15, 13, 11, 9, 6; mother, age 72
EDUCATION: Graduate Tokyo Imperial
University 1924
VOCATION: Lawyer
MILITARY CAREER: Japanese Army 1924-25;
recalled 1941 to end of war (Capt.)

DATE OF CONFINEMENT: 8 Oct 1945
DATE OF ARRAIGNMENT: 5 June 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 4 June 1947 to
15 Sept 1947
DATE OF SENTENCE: 15 Sept 1947
SENTENCE: CHL for one (1) year
CLEMENCY RECOMMENDED BY COMMISSION:
No

NAME: Tatsumi Ushihara ✓
AGE: 39
RESIDENCE: c/o Taiseikan Hotel,
19 Mangyo-Ji, Mae-Machi, Fukuoka
City, Fukuoka Prefecture
MARITAL STATUS: Married
RELATIVES: Wife, age 33; two children,
ages 8, 1½; father, age 70; brother,
age 41; sister, age 44
EDUCATION: Graduate University of
California in 1936 (International
Relations)
VOCATION: None
MILITARY CAREER: Japanese Army 1941
to June 1945 (Corp.); civilian
interpreter June 1945 to end of war.

DATE OF CONFINEMENT: 18 Sept 1945
DATE OF ARRAIGNMENT: 5 June 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 4 June 1947 to
15 Sept 1947
DATE OF SENTENCE: 15 Sept 1947
SENTENCE: CHL for ten (10) years
CLEMENCY RECOMMENDED BY COMMISSION:
No

NAME: Goro Uchida ✓
AGE: 37
RESIDENCE: #2370 Shiroyama-Cho, Tama,
Tamano-Shi, Okayama Prefecture
MARITAL STATUS: Married
RELATIVES: Wife, age 29; three
children, ages 8, 7, 4; father,
age 76; two brothers, ages 34, 20;
two sisters, ages 25, 22
EDUCATION: Graduate Keijo Medical
School, Korea, 1934
VOCATION: Doctor
MILITARY CAREER: Japanese Army 1935
to 1936; recalled Aug 1941 to end
of war (Capt.).

DATE OF CONFINEMENT: 8 Oct 1945
DATE OF ARRAIGNMENT: 5 June 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 4 June 1947 to
15 Sept 1947
DATE OF SENTENCE: 15 Sept 1947
SENTENCE: CHL for seventeen (17)
years
CLEMENCY RECOMMENDED BY COMMISSION:
No

NAME: Isamu Goto ✓
AGE: 53
RESIDENCE: Kubo, Miyagi-Mura, Naoiri-
Gun, Oita Prefecture
MARITAL STATUS: Widower
RELATIVES: Three children, ages 24,
18, 14; brother, age 60
EDUCATION: Eight years primary school
VOCATION: School teacher
MILITARY CAREER: Japanese Army 1912
to 1931; recalled 1937 to 1940;
recalled 1941 to end of war (Capt.).

DATE OF CONFINEMENT: 8 Oct 1945
DATE OF ARRAIGNMENT: 5 June 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 4 June 1947 to
15 Sept 1947
DATE OF FINDINGS: 15 Sept 1947
FINDING: Not Guilty

Restricted

Restricted

NAME: Yasutosi Mizuguchi ✓
AGE: 33
RESIDENCE: c/o Keihiro Asano,
Suzugawa, Kimobetsumura, Abutagun,
Hokkaido
MARITAL STATUS: Divorced
RELATIVES: Father, age 68; two sisters,
ages 38, 31; two brothers, ages 29,
24
EDUCATION: College of Medicine, Keijo
Imperial University
VOCATION: Doctor
MILITARY CAREER: Japanese Army May
1944 to end of war (2d Lt.).

DATE OF CONFINEMENT: 30 Dec 1945
DATE OF ARRAIGNMENT: 5 June 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 4 June 1947 to
15 Sept 1947
DATE OF SENTENCE: 15 Sept 1947
SENTENCE: Death
CLEMENCY RECOMMENDED BY COMMISSION:
No

NAME: Rinsaburo Shito ✓
AGE: 32
RESIDENCE: #1141 1-Chome, Kitagawa,
Setagaya-Ku, Tokyo
MARITAL STATUS: Single
RELATIVES: Father, age 67; mother,
age 62; three brothers, ages 37, 24,
20; two sisters, ages 30, 17.
EDUCATION: Graduate Akita Mining College
1938
VOCATION: Company clerk
MILITARY CAREER: Japanese Army 1942
to end of war (Lance Corp.).

DATE OF CONFINEMENT: 12 Oct 1945
DATE OF ARRAIGNMENT: 5 June 1947
PLACE OF TRIAL: Yokohama, Japan
PERIOD OF TRIAL: 4 June 1947 to
15 Sept 1947
DATE OF SENTENCE: 15 Sept 1947
SENTENCE: CHL for thirty-three (33)
years
CLEMENCY RECOMMENDED BY COMMISSION:
No

2. Synopsis of Charges, Pleas, Findings and Legal Sufficiency:

<u>Charge and Specifications:</u>	<u>Pleas</u>	<u>Findings</u>	<u>legally Sustained</u>
<u>SHITO</u>			
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
Sp 1: On or about 5 Feb 1945, at or near the Konan POW Camp, accused, with others, did willfully and unlawfully mistreat and abuse Sgt. Eugene A. Fathers, an Australian PW, by kicking him and beating him with fists.	NG	G	Yes
Sp 2: In or about Nov 1944, at or near Konan POW Camp, accused did willfully and unlawfully mistreat and abuse Sapper Cecil Ody, a British PW, by beating him and by forcing him to stand in extreme cold for approximately forty-five minutes while inadequately clothed.	NG	G	Yes
Sp 3: Between 1 Apr 1944 and 31 Mar 1945, at or near Konan POW Camp, accused did willfully and unlawfully mistreat and abuse Pvt. John A. Taylor, an Australian PW, by beating and kicking him.	NG	NG (R 723)	---

Restricted

Restricted

Sp 4: Between 1 Apr 1944 and 31 Mar 1945, at or near Konan POW Camp, accused did willfully and unlawfully mistreat and abuse Pvt. Sidney M. Fellow, an Australian PW, by beating him and by compelling him to stand at attention for approximately eight hours without food. NG G Yes

Sp 5: In or about Mar 1945, at or near the Konan POW Camp, accused did willfully and unlawfully mistreat and abuse Corp. Reginald Hayter, an Australian PW, by forcing him to stand at attention in extreme cold for approximately one hour while inadequately clothed, thereby contributing to and accelerating his death. NG Guilty, Yes except the words, "thereby contributing to and accelerating his death"; and of the excepted words, Not Guilty.

Sp 6: Between 1 Apr 1944 and 31 Mar 1945, at or near Konan POW Camp, accused did willfully and unlawfully mistreat, torture, abuse and beat numerous Allied PW's. NG G Yes, in part

Sp 7: In or about Sept 1943, at or near Keijo POW Camp, accused did willfully and unlawfully mistreat and abuse Pvt. Matthew Thompson, a British PW, by beating him with fists. NG G Yes

Sp 8: Between 1 May 1943 and 31 Dec 1943, at or near Keijo POW Camp, accused did willfully and unlawfully mistreat Pvt. John G. Broughton, a British PW, by beating him with a club and otherwise abusing him. NG G Yes

Sp 9: Between 1 May 1943 and 31 Apr 1944, at or near Keijo POW Camp, accused did willfully and unlawfully mistreat, torture, abuse and beat numerous Allied PW's. NG G Yes, in part

Sp 10: Between 1 Mar 1945 and 31 May 1945, at or near Keijo POW Camp, accused did willfully and unlawfully mistreat, torture, abuse and beat numerous Allied PW's. NG NG

USHIHARA

Charge: Accused, a civilian employee serving the Imperial Japanese Army as an interpreter, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War. NG G Yes

Sp 1: In or about Sept 1943, at or near Keijo POW Camp, accused, with another, did willfully and unlawfully mistreat and abuse Pvt. Matthew Thompson, a British PW, by slapping him about the face and by striking him with a heavy roll of paper. NG Guilty, Yes except the words, "and by striking him with a heavy roll of paper"; of the excepted words, Not Guilty.

Restricted

Restricted

Sp 2: Between 1 June 1943 and 31 Aug 1943, at or near Keijo POW Camp, accused, with another, did willfully and unlawfully mistreat and abuse Pvt. Arthur Clarke, an Australian PW, by kicking him and by beating him with fists and a wooden sword about the head and body for approximately two hours.	NG	Guilty,	Yes
		except the words "by kicking him and", and, "a wooden sword"; of the excepted words, Not	
		Guilty.	
Sp 3: Between 1 Sept 1942 and 15 Aug 1945, at or near Keijo POW Camp, accused, with others, did willfully and unlawfully mistreat, abuse and torture W/O W. Woodward, an Australian PW, by twisting his arms, legs and head in unnatural positions.	NG	NG	---
Sp 4: Between 1 Sept 1942 and 15 Aug 1945, at or near Keijo POW Camp, accused did willfully and unlawfully mistreat numerous sick Allied PW's by denying them medical supplies and attention and by beating and otherwise abusing them.	NG	G	Yes
<u>TERMS</u>			
Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the laws and Customs of War.	NG	G	Yes
Sp 1: Between 1 May 1943 and 31 Dec 1943, at or near Keijo POW Camp, accused did willfully and unlawfully mistreat and abuse Pvt. John G. Broughton, a British PW, by striking him in the face with fist.	NG	G	Yes
Sp 2: Between 1 Mar 1943 and 16 Mar 1943, at or near Keijo POW Camp, accused did willfully and unlawfully mistreat and abuse Pvt. David P. Lomasney, a British PW, by beating and kicking him and striking him with a sheathed sword.	NG	G	Yes
Sp 3: Between 1 May 1944 and 30 Sept. 1944, at or near Keijo POW Camp, accused did willfully and unlawfully mistreat and abuse Lt. Col. Hereward D. Cardew, Lt. Col. Raymond C. Woodbridge, Capt. Ralph B. Prince and Lt. Stewart E. Bell, British PW's, Capt. Wilfred D. Fawcett, Lt. John Turner and Lt. P. F. Fuller, Australian PW's, and other Allied PW's by striking them.	NG	G	Yes, in part
Sp 4: In or about Sept 1943; at or near Keijo POW Camp, accused, with another, did willfully and unlawfully mistreat and abuse Pvt. Matthew Thompson, a British PW, by striking him with a heavy roll of paper and by slapping him about the face.	NG	G	Yes, in part

Restricted

Restricted

Sp 5: Between 1 June 1943 and 31 Aug 1943, at or near Keijo POW Camp, accused, with another, did willfully and unlawfully mistreat and abuse Pvt. Arthur Clarke, an Australian PW, by kicking him and by beating him with fists and a wooden sword about the head and body for approximately two hours. NG G Yes

Sp 6: Between 1 Feb 1943 and 31 Aug 1945, at or near Keijo POW Camp, accused, with others, did willfully and unlawfully misappropriate Red Cross food and supplies intended for the use of Allied PW's. NG G Yes

Sp 7: Between 7 Jan 1942 and 13 Aug 1945, at or near Keijo POW Camp, accused did willfully and unlawfully mistreat, torture, abuse and beat numerous Allied PW's and did willfully and unlawfully order, cause and knowingly permit Japanese personnel to mistreat, torture, abuse and beat numerous PW's. NG G Yes, in part

TAKUMA

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War. NG G Yes

Sp 1: In or about Feb 1944, at or near Keijo POW Camp, accused did willfully and unlawfully mistreat and abuse Pvt. Frank McKenzie, a British PW, by beating him about the face with a soup ladle and at the same time and place ordering and causing various guards or sentries to inflict cruel beatings and kickings on approximately twenty other Allied PW's. NG G Yes

Sp 2: Between 27 Aug 1943 and 4 Oct 1944, at or near Keijo POW Camp, accused did willfully and unlawfully mistreat Lt. E. W. Ingham and Lt. B. M. Wardle, British PW's, by beating them. NG G No

Sp 3: Between 27 Aug 1943 and 4 Oct 1944, at or near Keijo POW Camp, accused did willfully and unlawfully mistreat and abuse Capt. F. K. Beattie, a sick Australian PW, by striking him. NG G No

Sp 4: On or about 1 Apr 1944, at or near the Keijo POW Camp, accused did willfully and unlawfully mistreat and abuse Capt. W. D. Fawcett, an Australian PW, by beating him about the face and head. NG G Yes

Sp 5: Between 1 Sept 1944 and 4 Oct 1944, at or near Keijo POW Camp, accused did willfully and unlawfully mistreat and abuse Corp. Robert J. Fredericks, NG Guilty (R 761) Yes except the words "breaking his jaw" which were stricken (R 533).

(p 7 of 81, Noguchi Case #181)

Restricted

Restricted

an Australian PW, by beating him with a stick about the face, breaking his jaw.

Sp 6: Between 27 Aug 1943 and 4 Oct 1944, at or near Keijo POW Camp, accused did willfully and unlawfully mistreat numerous Allied PW's by beating and otherwise abusing them.	NG	G	Yes, in part
--	----	---	--------------

MIZUGUCHI

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
--	----	---	-----

Sp 1: Between 1 Jan 1945 and 14 May 1945, at Jinsen POW Camp, accused, medical officer of said camp, did willfully and unlawfully mistreat and abuse Lt. William N. King, an American PW, by beating him and by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.	NG	G	Yes
---	----	---	-----

Sp 2: Between 1 Jan 1945 and 4 July 1945, at Jinsen POW Camp, accused, medical officer of said camp, did willfully and unlawfully mistreat and abuse Capt. George C. Brundrett, an American PW, by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.	NG	G	Yes
--	----	---	-----

Sp 3: Between 1 May 1945 and 30 June 1945, at Jinsen POW Camp, accused did willfully and unlawfully mistreat, abuse and torture Lt. Col. Curtis T. Beecher, a sick American PW, by beating and kicking him.	NG	G	Yes
---	----	---	-----

Sp 4: Between 1 May 1945 and 30 June 1945, at Jinsen POW Camp, accused did willfully and unlawfully mistreat and abuse Lt. Col. E. Carl Engelhart, an American PW, by beating and kicking him.	NG	G	Yes
--	----	---	-----

Sp 5: Between 1 May 1945 and 30 June 1945, at Jinsen POW Camp, accused did willfully and unlawfully mistreat and abuse Lt. Col. Joseph Eugene Kramer, an American PW, by beating and kicking him.	NG	G	Yes
---	----	---	-----

Sp 6: In or about May 1945, at Jinsen POW Camp, accused did willfully and unlawfully mistreat and abuse Maj. Chester L. Johnson, an American PW, by beating and otherwise abusing him.	NG	G	Yes
--	----	---	-----

(p 8 of 81, Noguchi Case #181)

Restricted

Restricted

Sp 7: Between 1 July 1944 and 15 Aug 1945, at Jinsen POW Camp, accused did willfully and unlawfully mistreat and abuse Maj. William J. Holohan, a British PW, by beating and kicking him.	NG	G	Yes
Sp 8: In or about Sept 1944, at Jinsen POW Camp, accused did willfully and unlawfully mistreat and abuse Capt. W. S. Reeve, a British PW, by beating and kicking him.	NG	G	Yes
Sp 9: Between 10 June 1944 and 5 July 1945, at Jinsen POW Camp, accused did willfully and unlawfully mistreat and abuse Pvt. Walter Goddard, an American PW, by beating him.	NG	G	Yes
Sp 10: Between 10 June 1944 and 31 Dec 1944, at Jinsen POW Camp, accused did willfully and unlawfully mistreat and abuse Corp. John Lee, a British PW, by beating and otherwise abusing him and by compelling him, in inclement weather, to stand at attention for a long period of time.	NG	G	Yes
Sp 11: Between 10 June 1944 and 31 Dec 1944, at Jinsen POW Camp, accused did willfully and unlawfully mistreat and abuse one Sgt. Herbert, a British PW, by beating and kicking him, thereby breaking his false teeth.	NG	G	Yes
Sp 12: Between 1 Jan 1945 and 5 July 1945, at Jinsen POW Camp, accused did willfully and unlawfully mistreat and abuse Sgt. Michael A. Sedlak, an American PW, by beating and kicking him.	NG	G	Yes
Sp 13: At various times between 10 June 1944 and 5 July 1945, at Jinsen POW Camp, accused, medical officer of said camp, did willfully and unlawfully mistreat numerous Allied PW's by compelling and permitting them to perform arduous labor when physically unfit to perform such labor, by beating them, by denying and refusing them adequate and available medicines and medical treatment, and by otherwise abusing them.	NG	G	Yes, in part
Sp 14: On or about 14 May 1945, at Jinsen POW Camp, accused did willfully and unlawfully intimidate and coerce Lt. Col. Curtis T. Beecher, senior American PW of said camp, to sign a false certificate of death of William N. King, a deceased American PW.	NG	G	Yes

KUROKAWA

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
--	----	---	-----

Restricted

Restricted

Sp 1: In or about Jan 1945, at or near Jinsen POW Camp, accused did willfully and unlawfully mistreat and abuse Gunner Thomas M. Feerick, a British PW, by beating and kicking him about the head and body, by striking him on the head and shoulders with a table and by compelling him to stand at attention for two hours in cold weather while thinly clad. NG G Yes

Sp 2: Between 23 Dec 1943 and 15 Aug 1945, at or near Jinsen POW Camp, accused did willfully and unlawfully mistreat, abuse and beat numerous Allied PW's. NG NG ---

WATANABE

Charge: Accused, a civilian doctor serving with the Imperial Japanese Army, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War. NG G Yes

Sp 1 (original): Between 1 Aug 1944 and 18 May 1945, at or near Konan Civil Hospital, Konan, Korea, accused, then physician in charge of said hospital, did willfully and unlawfully mistreat and abuse Pvt. Frank Knowles, a British PW, by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death. NG (see amended Specification 1 below)

Sp 1 (as amended, R 558): Between 1 Aug 1944 and 18 May 1945, at or near Konan POW Camp, Konan, Korea and at or near the Main Hospital of the Nippon Chisso Hiryo Company, Konan, Korea, the accused, then physician of said Camp and Liaison Physician for PW's at said Hospital, did willfully and unlawfully mistreat and abuse Pvt. Frank Knowles, a British PW, by withholding from and denying to him adequate and available medicines and medical treatment, facilities and supplies furnished him and by neglecting and failing to advise and report to Konan POW Camp the unlawful mistreatment and abuse by the personnel at said Hospital of said Knowles by withholding from and denying to him adequate and available medicines and medical treatment and care, thereby contributing to and accelerating his death. NG Guilty, No except the words "and at or near the Main Hospital of the Nippon Chisso Hiryo Company, Konan, Korea", and "and Liaison Physician for Prisoners of War at said Hospital", and "by neglecting to inspect and observe the medical treatment, facilities and supplies furnished him and by neglecting and failing to advise and report to Konan Prisoner of War Camp the unlawful mistreatment and abuse by the personnel at said Hospital of said Knowles by withholding from and denying to him adequate and available medicines and medical treatment and care, thereby contributing to and accelerating his death." And of the excepted words, NG.

Sp 2 (original): Between 1 Jan 1945 and 18 May 1945, at or near the Nippon Carbide Company, Konan, Korea, accused, then head physician of said company, did willfully and unlawfully mistreat and abuse Corp. Reginald Hayter, an Australian PW, by withholding from and denying to him adequate and available NG (see amended Specification 2 below)

Restricted

Restricted

medicines and medical treatment, thereby contributing to and accelerating his death.

Sp 2 (as amended, R 558): Between 1 Jan 1945 and 18 May 1945, at or near Konan POW Camp, Konan, Korea, accused, then physician of said Camp, did willfully and unlawfully mistreat and abuse Corp. Reginald Hayter, an Australian PW, by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.

NG

NG

Sp 3 (original): Between 15 Sept 1943 and 31 Aug 1945, at or near the Nippon Carbide Company, Konan, Korea, accused, then head physician of said company, did willfully and unlawfully mistreat numerous Allied PW's by withholding from and denying to them adequate and available medicines and medical treatment and by otherwise abusing them.

NG

(see amended Specification 3 below)

Sp 3 (as amended R 558): Between 15 Sept 1943 and 31 Aug 1945, at or near Konan POW Camp, Konan, Korea and at or near the Nippon Chisso Hiryo Company, Konan, Korea, accused, then physician of said Camp, did willfully and unlawfully mistreat numerous Allied PW's by withholding from and denying to them adequate and available medicines and medical treatment and by otherwise abusing them.

NG

G

Yes,
in
part

OKAZAKI

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.

NG

G

Yes

Sp 1: Between 27 Nov 1942 and 17 Aug 1945, at or near Jinsen POW Camp, accused did unlawfully disregard and fail to discharge his duties as commander of said camp to restrain and control members of his command and persons under his supervision and control, by permitting them to commit the following atrocities and other offenses against Allied PW's.

a. Between 1 Jan 1945 and 14 May 1945, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi, medical officer of said camp, of 1st Lt. William N. King, an American PW, by withholding from and denying to him adequate and available medicines and medical treatment and by beating him, thereby contributing to and accelerating his death.

NG

G

Yes

Restricted

Restricted

b. Between 1 Jan 1945 and 4 July 1945, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi, medical officer of said Camp, of Capt. George C. Brundrett, an American PW, by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.	NG	G	Yes
c. Between 1 May 1945 and 30 June 1945, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi of Lt. Col. Curtis T. Beecher, a sick American PW, by beating and kicking him.	NG	G	Yes
d. Between 1 May 1945 and 30 June 1945, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi of Lt. Col. Carl Engelhart, an American PW, by beating and kicking him.	NG	G	Yes
e. Between 1 May 1945 and 30 June 1945, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi of Lt. Col. Joseph E. Kramer, an American PW, by beating and kicking him.	NG	G	Yes
f. In or about May 1945, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi of Maj. Chester E. Johnson, an American PW, by beating and otherwise abusing him at a time when Johnson was in poor physical condition.	NG	G	Yes
g. Between 10 June 1944 and 5 July 1945, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi of Maj. William J. Holohan, a British PW, by beating and kicking him.	NG	G	Yes
h. In or about Sept 1944, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi of Capt. W. S. Reeve, a British PW, by beating and kicking him.	NG	G	Yes
i. Between 10 June 1944 and 5 July 1945, the unlawful mistreatment and abuse by one Lt. Yasutosi Mizuguchi of Pvt. Walter Goddard, an American PW, by beating him.	NG	G	Yes
j. Between 10 June 1944 and 31 Dec 1944, the unlawful mistreatment, torture and abuse by Lt. Yasutosi Mizuguchi of Corp. John Lee, a British PW, by beating and kicking him about the head and body and by compelling him to stand at attention for a long period of time while said PW was ill with beriberi and suffering from paralysis of the legs.	NG	G	Yes
k. Between 10 June 1944 and 31 Dec 1944, the unlawful mistreatment and	NG	G	Yes

Restricted

Restricted

abuse by Lt. Yasutosi Mizuguchi of one Sgt. Herbert, a British PW, by beating him and by kicking him about the head and body.

l. Between 1 Jan 1945 and 5 July 1945, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi of Sgt. Michael A. Sedlak, an American PW, by beating and kicking him.	NG	G	Yes
---	----	---	-----

m. At various times between 27 Nov 1942 and 31 Aug 1945, the unlawful mistreatment and abuse of numerous Allied PW's by beating them, by kicking them, by compelling and permitting them to perform arduous labor when physically unfit to perform such labor and by denying and refusing them adequate and available medicines and medical treatment and by otherwise abusing them.	NG	G	No
--	----	---	----

n. On or about 14 May 1945, the unlawful intimidating and coercing by Lt. Yasutosi Mizuguchi of Lt. Col. Curtis T. Beecher, an American PW, to sign a false certificate of death of Lt. William N. King, a deceased American PW.	NG	G	Yes
--	----	---	-----

o. In or about Jan 1945, the unlawful mistreatment and abuse by Lt. Yohachi Kurokawa of Gunner Thomas M. Feerick, a British PW, by beating and kicking him about the head and body, by striking him on the head and shoulders with a table, and by compelling him to stand at attention for two hours in zero weather while thinly clad.	NG	G	Yes
--	----	---	-----

p. At divers times between 27 Nov 1942 and 31 Aug 1945, the unlawful mistreatment, torture, abuse and beating of numerous Allied PW's.	NG	G	Yes, in part
--	----	---	--------------

UCHIDA

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
--	----	---	-----

Sp 1: Between 1 Jan 1945 and 14 May 1945, at Jinsen POW Camp, accused, Senior Medical Staff Officer of the Korean POW Headquarters, did willfully and unlawfully disregard and fail to discharge his duties by neglecting to inspect Korean POW Camp hospitals, medical facilities and supplies and to supervise the duties and conduct of Japanese medical personnel and to advise and report to the Korean POW Headquarters the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi,	NG	NG	---
--	----	----	-----

Restricted

Restricted

Jinsen POW Camp medical officer, of 1st Lt. William N. King, an American POW, by withholding from and denying to him adequate and available medicines and medical treatment and by beating him, thereby contributing to and accelerating his death.

Sp 2: Between 1 Jan 1945 and 4 July 1945, at Jinsen POW Camp, accused, Senior Medical Staff Officer of the Korean POW Headquarters, did willfully and unlawfully disregard and fail to discharge his duties by neglecting to inspect Korean POW camp hospitals, medical facilities and supplies and to supervise the duties and conduct of Japanese medical personnel and to advise and report to the Korean POW Headquarters the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi, Jinsen POW Camp medical officer, of Capt. George C. Brundrett, an American POW, by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.

NG

NG

Sp 3: At divers times between 22 Sept 1942 and 17 Aug 1945, at or near Jinsen POW Camp, accused, Senior Medical Staff Officer of Korean POW Headquarters, did willfully and unlawfully disregard and fail to discharge his duties by neglecting to inspect Korean POW camp hospitals, medical facilities and supplies and to supervise the duties and conduct of Japanese medical personnel and to advise and report to Korean POW Headquarters the unlawful mistreatment and abuse of numerous Allied PW's by members of the Jinsen POW Camp medical staff, by denying them adequate and available medicines and medical treatment and by forcing sick Allied PW's to be sent to work.

NG

G

No

Sp 4: Between 22 Sept 1942 and 22 Nov 1942, at or near Keijo POW Camp, accused, Medical Officer of said Camp, did willfully and unlawfully mistreat and abuse Lt. Col. J. A. Dyson, a British PW, by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.

NG

NG
(R 533)

Sp 5: Between 22 Sept 1942 and 1 Dec 1942, at or near Keijo POW Camp, accused, Medical Officer of said Camp, did willfully and unlawfully mistreat and abuse Capt. J. F. Whiting, a British PW, by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.

NG

NG

(p 14 of 81, Noguchi Case #181)

Restricted

Restricted

Sp 6: Between 22 Sept 1942 and 17 Aug 1945, at or near Keijo POW Camp, accused, Medical Officer of said Camp, did willfully and unlawfully mistreat and abuse numerous sick Allied PW's by withholding from and denying to them adequate and available medicines and medical treatment and by permitting persons under his supervision and control to mistreat and abuse said prisoners by beating them and by sending them to work when physically unfit.

NG

G

Yes

Sp 7 (original): Between 1 Aug 1944 and 31 May 1945, at or near Konan POW Camp, Konan, Korea, the accused, Senior Medical Staff Officer of the Korean POW Headquarters, did willfully and unlawfully disregard and fail to discharge his duties by neglecting to inspect Korean POW Camp hospitals, medical facilities and supplies and to supervise the duties and conduct of Japanese medical personnel and to advise and report to the Korean POW Headquarters the unlawful mistreatment and abuse of Pvt. Frank Knowles, a British PW, by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.

NG (see amended Specification 7 below)

Sp 7 (as amended R 537): Between 1 Aug 1944 and 31 May 1945, at or near Konan POW Camp, Konan, Korea, accused, Senior Medical Staff Officer of the Korean POW Headquarters, did willfully and unlawfully disregard and fail to discharge his duties by neglecting to inspect Korean POW Camp hospitals, medical facilities and supplies and the Nippon Chisso Hiryo Company main hospital, and to supervise the duties and conduct of Japanese medical personnel and to advise and report to the Korean POW Headquarters the unlawful mistreatment and abuse of Pvt. Frank Knowles, a British PW, by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.

NG

NG

Sp 8: Between 22 Sept 1942 and 18 May 1945, at or near Fusan and at or near Konan POW Camp, accused, Senior Medical Staff Officer of the Korean POW Headquarters, did willfully and unlawfully mistreat and abuse Corp. Reginald Hayter, an Australian PW, by refusing and neglecting to supply him with adequate and available medicines and medical treatment and by neglecting to inspect Korean POW camp hospitals, medical facilities and supplies and to supervise the duties and conduct of Japanese medical personnel and to advise and report to the Korean

NG

NG

Restricted

Restricted

POW Headquarters the unlawful mistreatment and abuse by the personnel at Konan POW Camp of said Hayter by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.

Sp 9: Between 22 Sept 1942 and 31 Aug 1945, at or near Konan POW Camp, accused, Senior Medical Staff Officer of Korean POW Headquarters, did willfully and unlawfully disregard and fail to discharge his duties by neglecting to inspect Korean POW camp hospitals, medical facilities and supplies and to supervise the duties and conduct of Japanese medical personnel and to advise and report to Korean POW Headquarters the unlawful mistreatment and abuse of numerous Allied PW's by members of the Konan POW Camp medical staff by denying them adequate and available medicines and medical treatment and by forcing sick Allied PW's to be sent to work.

NG

G

No

Sp 10: Between 22 Sept 1942 and 1 Mar 1943, at or near Fusan, accused, Senior Medical Staff Officer of Korean POW Headquarters, did willfully and unlawfully mistreat and abuse numerous Allied PW's by forcing them to march five miles through the streets of Fusan when physically unfit, and by withholding from and denying to them adequate and available medicines and medical treatment.

NG

NG

Sp 11: Between 30 July 1943 and 29 Aug 1945, at or near Keijo POW Camp, and at or near the Seidaimon Civil Prison, Keijo, accused, Medical Officer of said Camp, did willfully and unlawfully mistreat and abuse Lt. R. B. Pigott, a British PW, by refusing and neglecting to supply him with adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.

NG

Guilty,

No

except the words "by refusing and neglecting to supply him with adequate and available medicines and medical treatment, thereby contributing to and accelerating his death", substituting therefor the words, "by refusing to continue available medical treatment, thereby contributing to conditions deleterious to his health." Of the excepted words, NG.

Sp 12: Between 1 Feb 1944 and 23 Apr 1944, at or near Keijo POW Camp, and at or near Seidaimon Civil Prison, accused, Medical Officer of said camp, did willfully and unlawfully mistreat and abuse Lt. J. L. Moore, a British PW, by neglecting and refusing to supply him with adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.

NG

NG

(p 16 of 81, Noguchi Case #181)

Restricted

Restricted

Sp 13: Between 1 Feb 1944 and 17 Aug 1945, at or near Keijo POW Camp, and at or near Seidaimon Civil Prison, accused, Medical Officer of said Camp, did willfully and unlawfully mistreat and abuse Capt. D. S. Kershaw, a sick British PW, by neglecting and refusing to supply him with adequate and available medicines and medical treatment.

NG

NG

Sp 14: Between 22 Sept 1942 and 31 Aug 1945, at or near Seidaimon Civil Prison, accused, Medical Officer of Keijo POW Camp, did willfully and unlawfully mistreat and abuse numerous sick Allied PW's by withholding from and denying to them adequate and available medicines and medical treatment.

NG

NG

NOGUCHI

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.

NG

G

Yes

Sp 1: Between 22 Oct 1942 and 2 July 1944, at or near Keijo POW Camp, Korea, accused did willfully and unlawfully force Allied PW's to construct anti-aircraft artillery positions.

NG

NG

Sp 2: Between 15 Feb 1943 and 31 Mar 1943, at or near Keijo POW Camp, accused did willfully and unlawfully mistreat and abuse Pvt. Arthur Clarke, an Australian PW, by imprisoning him in conditions of extreme cold with inadequate clothing, bedding and food for ten days.

NG

NG

Sp 3: In or about July 1944, at or near Keijo POW Camp, accused did willfully and unlawfully mistreat and abuse Pvt. George Vinall, an Australian PW, by forcing him to stand continuously for three days and nights.

NG

NG

(R. 533)

Sp 4: Between about 22 Sept 1942 and 1 Mar 1943, in Korea, accused did unlawfully disregard and fail to discharge his duties as Commander of all Korea POW camps to restrain and control members of his command and persons under his supervision and control at or near Fusan, Korea, by permitting them to commit the following atrocities and other offenses against Allied PW's:

a. Between about 22 Sept 1942 and 1 Mar 1943, the unlawful mistreatment, humiliation and abuse by one Maj. Okuda, Isamu Goto and Goro Uchida of numerous sick Allied PW's by forcing them to march five miles through the

NG

NG

Restricted

Restricted

streets of Fusan and by withholding from and denying to them adequate and available medicines and medical treatment.

b. Between about 22 Sept 1942 and 1 Mar 1943, the unlawful mistreatment and abuse by Goro Uchida of Corp. Reginald Hayter, an Australian PW, by compelling him to march when physically unfit and by withholding from and denying to him adequate and available medicines and medical treatment.

NG

NG

Sp 5: Between 22 Sept 1942 and 31 Aug 1945, at or near Keijo POW Camp, accused did unlawfully disregard and fail to discharge his duties as Commander of said camp, to restrain and control members of his command and persons under his supervision and control, by permitting them to commit the following atrocities and other offenses against Allied PW's.

a. In or about Sept 1943, the unlawful mistreatment and abuse by Rinsaburo Shito and others of Pvt. Matthew Thompson, a British PW, by beating him with fists.

NG

G

Yes

b. Between 1 May 1943 and 31 Dec 1943, the unlawful mistreatment and abuse by Rinsaburo Shito of Pvt. John G. Broughton, a British PW, by severely beating him with a club and otherwise abusing him.

NG

Guilty,

Yes

with the exception of the word "severely", of the excepted word, Not Guilty.

c. Between 1 May 1943 and 31 Dec 1943, the unlawful mistreatment and abuse by Takeo Terada of Pvt. John G. Broughton, a British PW, by striking him in the face with fists.

NG

G

Yes

d. Between 1 June 1943 and 31 Aug 1943, the unlawful mistreatment and abuse by Takeo Terada and Tatsumi Ushihara of Pvt. Arthur Clarke, an Australian PW, by kicking him and by beating him with fists and a wooden sword about the head and body for approximately two hours.

NG

G

Yes

e. Between 1 Mar 1943 and 16 Mar 1943, the unlawful mistreatment and abuse by Takeo Terada of Pvt. David P. Lomasney, a British PW, by beating and kicking him and by striking him with a sheathed sword.

NG

G

Yes

f. Between 1 May 1944 and 30 Sept 1944, the unlawful mistreatment and abuse by Takeo Terada of Lt. Col. Hereward D. Cardew, Lt. Col. Raymond C. Woodbridge, Capt. Ralph B. Prince and Lt. Stewart E. Bell, British PW's; Capt. Wilfred D. Fawcett, Lt. John Turner and Lt. P. F. Fuller, Australian PW's, and other Allied PW's by striking them.

NG

G

Yes, in part

Restricted

Restricted

g. In or about Sept 1943, the unlawful mistreatment and abuse by Takeo Terada and Tatsumi Ushihara of Pvt. Matthew Thompson, a British PW, by striking him with a heavy roll of paper and by slapping him about the face.	NG	G	Yes
h. In or about May 1943, the unlawful mistreatment and abuse by Hiromasa Morotomi and another of Sgt. John Leigh, a British PW, by kicking him and by beating him with fists and a wooden sword.	NG	G	Yes
i. Between 13 Feb 1943 and 31 Aug 1945, the unlawful mistreatment and abuse by Hiromasa Morotomi of one Pvt. Brown and one Pvt. Welsby, British PW's, by kicking them and striking them with a wooden sword.	NG	G	Yes
j. In or about Feb 1944, the unlawful mistreatment and abuse by Masataro Takuma and others of Pvt. Frank McKenzie, a British PW, by beating him about the face with a soup ladle and of about twenty other Allied PW's by kicking and beating them.	NG	G	Yes
k. Between 27 Aug 1943 and 4 Oct 1944, the unlawful mistreatment and abuse by Masataro Takuma of Lt. E. W. Ingham and Lt. B. M. Wardle, Allied PW's, by beating them.	NG	G	No
l. Between 27 Aug 1943 and 4 Oct 1944, the unlawful mistreatment and abuse by Masataro Takuma of Capt. F. K. Beattie, a sick Australian PW, by striking him.	NG	G	No
m. On or about 1 Apr 1944, the unlawful mistreatment and abuse by Masataro Takuma of Capt. W. D. Fawcett, an Australian PW, by striking him about the face and head.	NG	G	Yes
n. Between 1 Sept 1944 and 4 Oct 1944, the unlawful mistreatment and abuse by Masataro Takuma of Corp. Robert J. Fredericks, an Australian PW, by beating him with a stick about the face, thereby breaking his jaw.	NG	Guilty (R. 756) except the words "thereby breaking his jaw" which were stricken (R. 533).	Yes
o. Between 22 Sept 1942 and 31 Aug 1945, the unlawful mistreatment and abuse by Tatsumi Ushihara and others of W/O W. Woodward, an Australian PW, by twisting his arms, legs and head in unnatural positions.	NG	NG (R. 533)	---
p. Between 1 Jan 1943 and 31 Dec 1943, the unlawful mistreatment and abuse by Japanese guards of Maj. Beaumont, a British PW, by striking him with a rifle butt and fists, by stripping him of his clothes and by otherwise abusing him.	NG	G	Yes

Restricted

Restricted

q. In or about July 1943, the unlawful mistreatment and abuse by one "Paddy" and another of Capt. John Procter, a British PW, by beating him on the face and body with their fists.	NG	G	Yes
r. In or about July 1944, the unlawful mistreatment and abuse by one "Cagney" of Pvt. George Vinall, an Australian PW, by striking him on the head with a rifle butt.	NG	G	Yes
s. In or about July 1944, the unlawful mistreatment and abuse by one "Cagney" of Pvt. George Vinall, an Australian PW, by kicking him in the stomach.	NG	G	Yes
t. In or about Dec 1944, the unlawful mistreatment and abuse by one Matveyama of one Driver Perry, an Allied PW, by beating him.	NG	G	Yes
u. Between 1 Feb 1943 and 31 Aug 1945, the unlawful misappropriation by Takeo Terada and others of Red Cross food and supplies intended for the use and benefit of Allied PW's.	NG	G	Yes
v. Between 22 Sept 1942 and 22 Nov 1942, the unlawful mistreatment and abuse by Goro Uchida, Medical Officer of Keijo POW Camp, of Lt. Col. J. A. Dyson, a British PW, by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.	NG	NG (R. 533)	---
w. Between 22 Sept 1942 and 1 Dec 1942, the unlawful mistreatment and abuse by Goro Uchida, Medical Officer of Keijo POW Camp, of Capt. J. F. Whiting, a British PW, by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.	NG	NG	---
x. Between 22 Sept 1942 and 31 Aug 1945, the unlawful mistreatment of numerous sick Allied PW's by withholding from and denying to them adequate and available medicines and medical treatment, by beating and abusing them and by forcing them to work when in a physically unfit condition to do so.	NG	G	Yes, in part
y. Between 22 Sept 1942 and 31 Aug 1945, the unlawful mistreatment and abuse at various times of numerous Allied PW's by beating and otherwise abusing them.	NG	G	Yes, in part

Restricted

Restricted

Sp 6: Between 22 Sept 1942 and 31 Aug 1945, in Korea, accused did unlawfully disregard and fail to discharge his duties as Commander of all Korea POW camps to restrain and control members of his command and persons under his supervision and control, at or near Keijo, by permitting them to commit the following atrocities and other offenses against Allied PW's.

a. Between 30 July 1943 and 29 Aug 1945, at or near Keijo POW Camp, and at or near the Seidaimon Civil Prison, Keijo, the unlawful mistreatment and abuse by Goro Uchida, Medical Officer of Keijo POW Camp, of Lt. R. B. Pigott, a British PW, by refusing and neglecting to supply him with adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.

NG Guilty, except the words No "by refusing and neglecting to supply him with adequate and available medicines and medical treatment, thereby contributing to and accelerating his death"; substituting therefor the words "by refusing to continue available medical treatment; thereby contributing to conditions deleterious to his health"; of the excepted words, Not guilty.

b. Between 1 Feb 1944 and 23 Apr 1944, at or near Keijo POW Camp, and at or near Seidaimon Civil Prison, Keijo, the unlawful mistreatment and abuse by Goro Uchida, Medical Officer of Keijo POW Camp, of Lt. J. L. Moore, a British PW, by neglecting and refusing to supply him with adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.

NG NG

c. Between 1 Feb 1944 and 31 Aug 1945, at or near Keijo POW Camp, and at or near Seidaimon Civil Prison, Keijo, the unlawful mistreatment and abuse by Goro Uchida, Medical Officer of Keijo POW Camp, of Capt. D. S. Kershaw, a sick British PW, by neglecting and refusing to supply him with adequate and available medicines and medical treatment.

NG NG

d. Between 22 Sept 1942 and 31 Aug 1945, at or near Seidaimon Civil Prison, the unlawful mistreatment and abuse by Goro Uchida, Medical Officer of Keijo POW Camp, of numerous sick Allied PW's by refusing and neglecting to supply them with adequate and available medicines and medical treatment.

NG NG

Sp 7: Between 22 Sept 1942 and 31 Aug 1945, in Korea, the accused did unlawfully disregard and fail to discharge his duties as Commander of all Korea POW camps, to restrain and control members of his command and persons under his supervision and control, at or near Jinsen POW Camp, by permitting them to commit the following atrocities and other offenses against Allied PW's.

Restricted

Restricted

- a. Between 1 Jan 1945 and 14 May 1945, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi, Medical Officer of said camp, of 1st Lt. William N. King, an American PW, by withholding from and denying to him adequate and available medicines and medical treatment and by beating him, thereby contributing to and accelerating his death. NG G Yes
- b. Between 1 Jan 1945 and 4 July 1945, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi, Medical Officer of said camp, of Capt. George C. Brundrett, an American PW, by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death. NG G Yes
- c. Between 1 May 1945 and 30 June 1945, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi, of Lt. Col. Curtis T. Beecher, a sick American PW, by beating and by kicking him. NG G Yes
- d. Between 1 May 1945 and 30 June 1945, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi of Lt. Col. Carl Engelhart, an American PW, by beating and kicking him. NG G Yes
- e. Between 1 May 1945 and 30 June 1945, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi of Lt. Col. Joseph F. Kramer, an American PW, by beating and kicking him. NG G Yes
- f. In or about May 1945, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi of Maj. Chester L. Johnson, an American PW, by beating and otherwise abusing him at a time when Johnson was in poor physical condition. NG G Yes
- g. Between 10 June 1944 and 5 July 1945, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi of Maj. William J. Holohan, a British PW, by beating and kicking him. NG G Yes
- h. In or about Sept 1944, the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi of Capt. W. S. Reeve, a British PW, by beating and kicking him. NG G Yes
- i. Between 10 June 1944 and 5 July 1945, the unlawful mistreatment and abuse by one Lt. Yasutosi Mizuguchi of Pvt. Walter Goddard, an American PW, by beating him. NG G Yes
- j. Between 10 June 1944 and 31 Dec 1944, the unlawful mistreatment, torture and abuse by Lt. Yasutosi Mizuguchi of Corp. John Lee, a British NG G Yes

Restricted

Restricted

PW, by beating and kicking him about the head and body and by compelling him to stand at attention for a long period of time while said PW was ill with beriberi and suffering from paralysis of the legs.

k. Between 10 June 1944 and 31 Dec 1944, NG G Yes
the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi of one Sgt. Herbert, a British PW, by beating him and by kicking him about the head and body.

l. Between 1 Jan 1945 and 5 July 1945, NG G Yes
the unlawful mistreatment and abuse by Lt. Yasutosi Mizuguchi of Sgt. Michael A. Sedlak, an American PW, by beating and kicking him.

m. On or about 14 May 1945, the unlawful NG G Yes
intimidating and coercing by Lt. Yasutosi Mizuguchi of Lt. Col. Curtis T. Beecher, an American PW, to sign a false certificate of death of Lt. William N. King, a deceased American PW.

n. On or about Jan 1945, the unlawful NG G Yes
mistreatment and abuse by Lt. Yohachi Kurokawa of Gunner Thomas M. Feerick, a British PW, by beating and kicking him about the head and body, by striking him on the head and shoulders with a table, and by compelling him to stand at attention for two hours in zero weather while thinly clad.

o. In the year 1943, the unlawful NG NG
mistreatment and abuse of Maj. William J. Holohan, a British PW, by imprisoning him for ten days in solitary confinement and the unlawful mistreatment and abuse of one Capt. MacGillivray and Regimental Sgt. Maj. Clapp, British PW's, by imprisoning them for seven days in solitary confinement. (R. 533)

p. In the year 1944, the unlawful NG G Yes
mistreatment and abuse by one Pvt. Oshara and one "Sammy" of Gunner Thomas M. Feerick, a British PW, by kicking him and striking him with a rifle about the head and body, thereby damaging both eardrums of said PW.

q. At various times between 22 Sept 1942 and 31 Aug 1945, the unlawful NG G No
mistreatment and abuse of numerous Allied PW's by beating them, by kicking them, by compelling and permitting them to perform arduous labor when physically unfit to perform such labor and by denying and refusing them adequate and available medicines and medical treatment and by otherwise abusing them.

Restricted

Restricted

r. Between 22 Sept 1942 and 31 Aug 1945, the unlawful mistreatment, torture, abuse and beating of numerous Allied PW's. NG G Yes, in part

Sp 8: Between 22 Sept 1942 and 31 Aug 1945, in Korea, accused did unlawfully disregard and fail to discharge his duties as Commander of all Korea POW camps to restrain and control members of his command and persons under his supervision and control at or near Konan POW Camp, by permitting them to commit the following atrocities and other offenses against Allied PW's:

a. Between 1 Aug 1944 and 31 May 1945, the unlawful mistreatment and abuse of Pvt. Frank Knowles, a British PW, by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death. NG Deleted, and Sp 9 substituted therefor (R. 559). See Specification 9 below.

b. Between 22 Sept 1942 and 31 Aug 1945, the unlawful mistreatment and abuse of numerous sick Allied PW's by denying to and withholding from them adequate and available medicines and medical treatment and forcing them to be beaten and sent to work. NG Guilty, except the word "forcing", substituting therefor the word "causing"; of the excepted word, Not Guilty. Yes

c. On or about 5 Feb 1945, the unlawful mistreatment and abuse by Rinsaburo Shito of Sgt. Eugene A. Fathers, an Australian PW, by kicking him and by beating him with his fists. NG G Yes

d. In or about Nov 1944, the unlawful mistreatment and abuse by Rinsaburo Shito of Sapper Cecil Ody, a British PW, by beating him and by forcing him to stand in extreme cold for about forty-five minutes while inadequately clothed. NG G Yes

e. On or about 14 July 1945, the unlawful mistreatment and abuse by Rinsaburo Shito of Pvt. John A. Taylor, an Australian PW, by beating and kicking him. NG NG (R. 723)

f. Between 1 July 1944 and 31 May 1945, the unlawful mistreatment and abuse by Rinsaburo Shito of Pvt. Sidney M. Fellow, an Australian PW, by beating him and by compelling him to stand at attention for about eight hours without food. NG G Yes

g. Between 1 Feb 1945 and 31 Mar 1945, the unlawful mistreatment and abuse by Rinsaburo Shito of Corp. Reginald Hayter, an Australian PW, by forcing him to NG Guilty, except the words, "thereby contributing to and accelerating his death"; of the excepted words, NG. Yes

Restricted

Restricted

stand at attention in extreme cold for approximately one hour while inadequately clothed, thereby contributing to and accelerating his death.

h. Between 1 Feb 1945 and 18 May 1945, the unlawful mistreatment and abuse of Corp. Reginald Hayter, an Australian PW, by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.	NG	NG	---
---	----	----	-----

i. Between 22 Sept 1942 and 31 Aug 1945, the unlawful mistreatment, torture, abuse and beating of numerous Allied PW's.	NG	G	Yes, in part
---	----	---	--------------

Sp 9 (Substituted for Sp 8a, R. 559): Between 1 Aug 1944 and 31 May 1945 in Korea, the accused Yusuru Noguchi did unlawfully disregard and fail to discharge his duties as Commander of all Korea POW Camps by permitting Tokio Watanabe and personnel of the Konan POW Camp and the Nippon Chisso Hiryo Company main hospital at or near Konan, Korea, to unlawfully mistreat, Pvt. Frank Knowles, a British PW, by withholding from and denying to him adequate and available medicines and medical treatment, thereby contributing to and accelerating his death.	NG	Guilty, except the words "and the Nippon Chisso Hiryo Company Main Hospital, at or near Konan, Korea" and "thereby contributing to and accelerating his death"; of the excepted words, NG.	Yes, in part
--	----	--	--------------

ARIZUMI

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.	NG	G	Yes
--	----	---	-----

Sp 1: Between 22 Feb 1943 and 30 Apr 1945, at or near Keijo, accused did willfully and unlawfully cause and knowingly permit Japanese personnel to mistreat and abuse Pvt. David P. Lomasney, a British PW, by kicking him, by beating him with fists, chairs and wooden swords and by otherwise torturing him.	NG	Guilty, except the words "willfully and", and "cause", and "chairs and wooden swords and by otherwise torturing him"; of the excepted words, Not Guilty.	Yes
---	----	--	-----

Sp 2: Between 30 July 1943 and 30 July 1944, at Keijo, accused did willfully and unlawfully cause and knowingly permit Japanese personnel to mistreat and abuse Lt. R. B. Pigott, a British PW, by kicking him, by beating him and by otherwise torturing him.	NG	Guilty, except the words "willfully and", and "cause", and "and by otherwise torturing him". Of the excepted words, Not Guilty, with the exception of the word "by" (line six of the specification", and substituting therefor the word "and"; of the excepted word, Not Guilty.	Yes
--	----	--	-----

Sp 3: Between 26 Aug 1943 and 22 Sept 1943, at Keijo, accused did willfully and unlawfully cause and knowingly permit Japanese personnel to mistreat and abuse Capt. George B. Collinson,	NG	NG (R. 533)	---
---	----	----------------	-----

Restricted

Restricted

Capt. Dennis Kershaw, Capt. F. A. Jacob, Lt. Alfred E. Wood, and Lt. E. L. Mullins, British PW's, and Lt. W. V. Butler, an Australian PW, by handcuffing them and by imprisoning them in Seidaimon Prison.

GOTO

Charge: Accused, at the times and places set forth in the specifications hereto attached, did violate the Laws and Customs of War.

NG

NG

Sp 1: In or about Dec 1943, at or near Keijo POW Camp, accused did willfully and unlawfully force Allied PW's to construct a gun site,

NG

NG

Sp 2: On or about 22 Sept 1942, at or near Fusan, accused did willfully and unlawfully mistreat, humiliate and abuse numerous sick Allied PW's by forcing them to march five miles through the streets of Fusan.

NG

NG

Sp 3: Between 1 July 1942 and 31 Aug 1945, at or near Keijo POW Camp, accused did unlawfully disregard and fail to discharge his duty as officer in charge of general affairs and administration of said camp to control and restrain the members of his command and persons under his supervision and control, by permitting them to commit the following atrocities and other offenses against Allied PW's:

a. In or about Sept 1943, the unlawful mistreatment and abuse by Rinsaburo Shito and others of Pvt. Matthew Thompson, a British PW, by beating him with fists.

NG

NG

b. Between 1 May 1943 and 31 Dec 1943, the unlawful mistreatment and abuse by Rinsaburo Shito of Pvt. John G. Broughton, a British PW, by severely beating him with a club and otherwise abusing him.

NG

NG

c. Between 1 May 1943 and 31 Dec 1943, the unlawful mistreatment and abuse by Takeo Terada of Pvt. John G. Broughton, a British PW, by striking him in the face with fists.

NG

NG

d. Between 1 June 1943 and 31 Aug 1943, the unlawful mistreatment and abuse by Takeo Terada and Tatsumi Ushihara of Pvt. Arthur Clarke, an Australian PW, by kicking him and by beating him with fists and a wooden sword about the head and body for approximately two hours.

NG

NG

Restricted

Restricted

- e. Between 1 Mar 1943 and 16 Mar 1943, the unlawful mistreatment and abuse by Takeo Terada of Pvt. David P. Lomasney, a British PW, by beating and kicking him and by striking him with a sheathed sword. NG NG
- f. Between 1 May 1944 and 30 Sept 1944, the unlawful mistreatment and abuse by Takeo Terada of Lt. Col. Hereward D. Cardew, Lt. Col. Raymond C. Woodbridge, Capt. Ralph B. Prince and Lt. Stewart E. Bell, British PW's, Capt. Wilfred D. Fawcett, Lt. John Turner and Lt. P. F. Fuller, Australian PW's, and other Allied PW's by striking them. NG NG
- g. In or about Sept 1943, the unlawful mistreatment and abuse by Takeo Terada and Tatsumi Ushihara of Pvt. Matthew Thompson, a British PW, by striking him with a heavy roll of paper and by slapping him about the face. NG NG
- h. In or about May 1943, the unlawful mistreatment and abuse by Hiromasa Morotomi and another of Sgt. John Leigh, a British PW, by kicking him and by beating him with fists and a wooden sword. NG NG
- i. Between 13 Feb 1943 and 31 Aug 1945, the unlawful mistreatment and abuse by Hiromasa Morotomi of one Pvt. Brown and one Pvt. Welsby, British PW's, by kicking them and striking them with a wooden sword. NG NG
- j. In or about Feb 1944, the unlawful mistreatment and abuse by Masataro Takuma and others of Pvt. Frank McKenzie, a British PW, by beating him about the face with a soup ladle and of about twenty other Allied PW's by kicking and beating them. NG NG
- k. Between 27 Aug 1943 and 4 Oct 1944, the unlawful mistreatment and abuse by Masataro Takuma of Lt. E. W. Ingham and Lt. B. M. Wardle, Allied PW's, by beating them. NG NG
- l. Between 27 Aug 1943 and 4 Oct 1944, the unlawful mistreatment and abuse by Masataro Takuma of Capt. F. K. Beattie, a sick Australian PW, by striking him. NG NG
- m. On or about 1 Apr 1944, the unlawful mistreatment and abuse by Masataro Takuma of Capt. W. D. Fawcett, an Australian PW, by striking him about the face and head. NG NG

Restricted

Restricted

n. Between 1 Sept 1944 and 4 Oct 1944, the unlawful mistreatment and abuse by Masataro Takuma of Corp. Robert J. Fredericks, an Australian PW, by beating him with a stick about the face, thereby breaking his jaw.	NG	NG	---
o. Between 1 Sept 1942 and 31 Aug 1945, the unlawful mistreatment and abuse by Tatsumi Ushihara and others of W/O W. Woodward, an Australian PW, by twisting his arms, legs and head in unnatural positions.	NG	NG (R. 533)	---
p. Between 1 Jan 1943 and 31 Dec 1943, the unlawful mistreatment and abuse of Maj. Beaumont, a British PW, by striking him with a rifle butt and fists, by stripping him of his clothes and by otherwise abusing him.	NG	NG	---
q. In or about July 1943, the unlawful mistreatment and abuse by one "Paddy" and another of Capt. John Procter, a British PW, by beating him on the face and body with fists.	NG	NG	---
r. In or about July 1944, the unlawful mistreatment and abuse by one "Cagney" of Pvt. George Vinall, an Australian PW, by striking him on the head with a rifle butt.	NG	NG	---
s. In or about July 1944, the unlawful mistreatment and abuse by one "Cagney" of Pvt. George Vinall, an Australian PW, by kicking him in the stomach.	NG	NG	---
t. In or about Dec 1944, the unlawful mistreatment and abuse by one Mattheyama of one Driver Perry, an Allied PW, by beating him.	NG	NG	---
u. Between 1 Feb 1943 and 31 Aug 1945, the unlawful misappropriation by Takeo Terada and others of Red Cross food and supplies intended for the use and benefit of Allied PW's.	NG	NG	---
v. Between 1 July 1942 and 31 Aug 1945, the unlawful mistreatment of numerous sick Allied PW's by denying them medical supplies and attention, by forcing them to work, when in a physically unfit condition to do so, and by beating and otherwise abusing them.	NG	NG	---
w. At various times between 1 July 1942 and 31 Aug 1945, the unlawful mistreatment of numerous Allied PW's by beating and otherwise abusing them.	NG	NG	---

Restricted

Restricted

3. Summary of Evidence:

a. In General:

Col. Noguchi was the commanding officer of all PW's camps in Korea. There were three camps located at Keijo, Jinsen and Konan. Col. Noguchi's headquarters was at Keijo where he was in direct command of the Keijo Camp (Ex. 112). Jinsen Camp was about thirty miles from Keijo (Ex. 89); Konan Camp was about 130 miles from Keijo (Ex. 32). The accused and their duties are as indicated:

Headquarters Korean PW Camps

Noguchi (Col.) - commanding officer (Ex. 112)
Uchida (Capt.) - senior medical staff officer (Ex. 113, 115)

Keijo PW Camp

Noguchi (Col.) - commanding officer (Ex. 112)
Goto (Capt.) - general affairs officer (R. 581)
Uchida (Capt.) - medical officer (Ex. 113, 115)
Terada (Capt.) - intendance and guard officer (Ex. 120)
Takuma (Corp.) - guard (Ex. 119)
Ushihara (Corp. and civil employee) - medical orderly and interpreter (Ex. 23)
Shito (Sup. Pvt.) - guard, May 1943 to April 1944 (Ex. 118)
- (Lance corp.) - guard, March 1945 to end of war (Ex. 118)

Jinsen PW Camp

Okazaki (Lt. Col.) - commanding officer (Ex. 116)
Kurokawa (Lt.) - quartermaster (Ex. 105)
Mizuguchi (Lt.) - medical officer (Ex. 125)

Konan PW Camp

Watanabe (Civilian) - doctor (Ex. 122)
Shito (Lance corp.) - guard, April 1944 to March 1945 (Ex. 118)

* * * * *

*Korean Army Headquarters

Ariizumi (Capt.) - legal officer (Ex. 113)

* Korean Army Headquarters was an independent headquarters, not under the control or jurisdiction of Col. Noguchi.

b. For the Prosecution:

SHITO

As to Specification 1: Sgt. Fathers, an Australian PW, stated he was in charge of a party of PW's on 5 February 1945. He had received instructions through a Korean sentry from Shito, the guard commander, to leave for the parade ground fifteen minutes earlier than usual. He protested that it was too cold for men to wait on parade ground in temperature below freezing. The sentry lifted his rifle to strike him, and he put up his hand to prevent him from doing so. Shito accused him of disobeying his orders and striking the sentry. Shito attempted to hit him in the face with his fist, but he stepped back. A Japanese civilian hit him hard on the back of his head. Shito took him inside the guardroom. Shito stood on the platform, and while two Korean sentries held him by the arms and body, Shito hit him with his fists and kicked him with his boots at least a hundred times. The Koreans who were holding him also kicked and hit him. The beating lasted about ten minutes; he was very severely battered and

Restricted

Restricted

bruised; both his eyes were closed; his face was blue from bruising; his ears were injured and suffused with blood; his left leg was severely injured (Ex. 27). The beating was also described by others (Ex. 12, 20, 30, 31, 32, 40, 41, 46, 61, 66, 80, 83, 99, 100, 106, 108, 111, 135, 144; R. 149, 274).

As to Specification 2: Sapper Cecil Ody, a British PW, stated that about the time alleged because he talked to a Korean sentry making arrangements to get some food, Shito, the guard commander, set about him with a stick, thicker than an ordinary cane about two and one-half feet long. He had three guards hold him and he thrashed him for ten to fifteen minutes. He also struck him in the face with his fist a number of times. After the beating he was stripped to the trousers and made to stand outside the guardroom for about three-quarters of an hour. There was about fifteen degrees of frost (Ex. 64).

As to Specification 3: Not Guilty.

As to Specification 4: Pvt. Fellow, an Australian PW, stated about the end of 1944 he was shovelling coal and lime for the furnaces. He drank some water to gargle his throat, and spat it out on the floor. He was accused of urinating on the floor. Shito made him stand at attention outside the guardhouse for about eight hours. Shito also beat him about the head and body with his hands in an effort to make him confess. He was given nothing to eat. He had to be assisted back to camp. He was unable to get his boots on for three days after the beating (Ex. 30). PW Gilbert stated he saw Shito bash Fellow by prodding him with his rifle butt, and punching him on the head and face, and then made him stand at attention for the most part of a twelve-hour shift. This incident occurred in the winter of 1944-45, and there was snow on the ground (Ex. 100). The incident was also described by PW Bulmer (R. 154) and Corp. Doyle (R. 259). Australian PW's.

As to Specification 5: PW Costello stated that about February 1945, Shito made Corp. Hayter, an Australian PW, stand at attention in the bitter cold wind for thirty minutes despite the fact that he was resting from the furnace and was soaking in sweat (Ex. 18). Corp. Doyle, Australian PW, stated Hayter was forced to stand in snow in middle of February for about two hours; he had been stoking furnaces at the time. He continued to work for about six weeks after that; he was admitted to the camp hospital and died a little over a week later (R. 253-257). Pvt. Bulmer, an Australian PW, described the incident which was told to him by another PW working on the furnace. He stated Hayter went to work the following day and continued to work until he got sick (R. 153-156).

As to Specification 6: PW Barlow stated Shito would fly into a rage and curse PW's, who had not seen him, for not saluting him. He occasionally struck one or two PW's with a slap of the hand (Ex. 2). PW Fellow stated a good many PW's received the same treatment from Shito that he had received (Shito, 4) (Ex. 30). PW Flack stated Shito hit him on the head with a rifle, making a cut one and one-half inches long (Ex. 31). PW Clarke stated Shito bashed him about the head and body with a bucket because he failed to bow when Shito passed him (Ex. 88). PW Harper stated Shito waited outside the door of the hut, and as PW's filed out, he would bash with a rifle the heads of those coming out last (Ex. 103). PW Carey stated Shito kicked him in the groin and punched him about the face and head. He was very ill and passed blood for three days after the attack (Ex. 145). PW Corp. Harrison stated Shito was particularly vicious and guilty of many brutal attacks on numerous men for petty offenses (Ex. 40). Corp. Doyle, Australian PW, stated Shito came rushing in and hit him across the head with a rifle; he also hit British PW Bertram and Australian PW Flack across the head with a rifle; he cut Flack's head open; knocked Bertram off his feet, and put a lump on the side of his (Doyle's) head (R. 250, 276, 277); he struck Sgt. Maj. Woodward for interceding in their defense (R. 279); the same day he struck three Englishmen who arrived late for parade, five or six times across the face (R. 277); one of the PW's on the furnace told him Shito and Maeda got PW Webster out of the bath and Maeda slapped him across the face and Shito slapped him across the back (R. 270).

Restricted

Restricted

As to Specification 7: Pvt. Matthew Thompson, British PW, stated about September 1943 he was caught by a Korean sentry stealing an apple from a handcart. He was taken to the guardroom to Shito who made him kneel down with his hands behind his back. There were two other sentries in the room and they all commenced to strike him on each side of the head with their fists until he was almost unconscious (Ex. 80).

As to Specification 8: PW Broughton, British, stated on returning from the lavatory he was accused of having attempted to escape. He was taken to Shito who was in charge of the guard that day. Shito made him kneel down with his hands on his knees and struck him many times about the face and head with a round piece of wood about eighteen inches long and about one and one-half inches thick. He made his head and face bleed and continued to strike him until he fell unconscious. When he regained consciousness he was made to stand outside in the bitter cold for one and one-half hours (Ex. 8). The incident was also described by PW Barlow (Ex. 2).

As to Specification 9: PW Broughton stated Shito repeatedly knocked PW's about and then ordered his men to do so (Ex. 8). Sgt. Cattell stated Shito belted a British captain with a rifle butt and was joined by others. The captain's face was cut and his nose broken; he was extremely ill for a considerable time afterward (Ex. 134).

As to Specification 10: Not Guilty.

USHIHARA

As to Specification 1: Pvt. Matthew Thompson, British PW, stated that about September 1943 on returning to camp following the apple stealing incident (Shito, 7), he was sent for by Terada. Ushihara, the interpreter, was present. Terada told him he had done wrong in stealing the apple. Terada made him stand at attention and struck him on the head several times with a heavy roll of paper. Ushihara then struck him several times on the face with his hands (Ex. 80).

As to Specification 2: Pvt. Arthur Clarke, an Australian PW, stated that between June and August 1943, he was accused by a Japanese guard of stealing toothbrushes. On returning to camp he was sent for by Ushihara. Terada was there. They sent for the corporal of the guard and from the latter's statement, they were convinced that he (Clarke) was innocent of the charge. Ushihara, the interpreter, then picked up a letter previously censored by him in which he (Clarke) had written his wife to the effect that the PW's could not have survived without Red Cross parcels. Ushihara said the letter was insulting, and struck him across the face with his clenched fist. Ushihara spoke to Terada and the latter punched him and kicked him in the shins; he punched him around the head and body. Terada picked up a sword stick made of cane and struck him with all his force on his head and body. The bashing continued for about two hours in the evening. His body and face were black and blue from the beating. His left eye was blackened and he had lumps on his head like eggs. A tooth was broken off his lower denture, and his cheek was cut inside. During the time Ushihara assisted by bashing him with his clenched fist. Terada told Ushihara to take him away. Ushihara took him to the guardroom and made him kneel in the cell. He instructed the guard to bash him if he moved (Ex. 99). The incident was also described by others (Ex. 12, 32, 79, 98; R. 243).

As to Specification 3: Not Guilty.

As to Specification 4: Lt. Col. Elrington, senior British PW, stated that Ushihara, the medical orderly and camp interpreter, repeatedly maltreated the sick. Men reporting for medical treatment would be peremptorily dismissed without reference to the Japanese doctor and often punched in the face forcefully by Ushihara. He deliberately caused ill-feeling by his aggressive manner and the free use of his fists (Ex. 23). Corp. Wilkinson stated Ushihara, on numerous occasions, bashed sick PW's accusing them of malingering. He developed an antagonistic attitude toward sick PW's and in the majority of cases did

(p 31 of 81, Noguchi Case #181)

Restricted

not interpret correctly statements of sick PW's (Ex. 111). Sgt. Cattell, an Australian PW, stated Ushihara made interpretations to the medical officer completely contrary to statements of PW's. In March 1943 he was suffering from beriberi and reported to Ushihara for treatment. Ushihara told him he thought he did not have beriberi, and when Cattell suggested the doctor should know as he had been treating him for it, Ushihara flew into a rage and belted him with a wooden sword. He cut his face open, and he was ordered to go to work (Ex. 134). PW Hayes, Australian, stated he was admitted to the hospital suffering with beriberi and dysentery. Ushihara kicked him and discharged him from the hospital before he had recovered because he was smoking during permissible hours. He was taken to the guardroom and on Ushihara's orders he was compelled to stand at attention for two hours. He was later released to the hospital completely exhausted (Ex. 135).

Maj. O'Donnell, British medical officer, stated when Uchida was out of camp, he took sick call and Ushihara interpreted for him. He was very uncooperative and he could not get medicines from him except with great difficulty. On ten or twelve occasions he beat the sick in front of him. He struck PW Clarke, an Australian, who was suffering from dysentery about eight or nine times on the side of his face with his open and closed fist. Clarke did not come out of the hospital for quite a long time because of the beating. Ushihara often paid no attention to what he (O'Donnell) stated to Uchida, and eventually when he did speak to him, he gave his own version (R. 23). Ushihara beat up PW Fenny, the medical orderly, for ten or fifteen minutes. His face was red and swollen from the beating. Ushihara refused to give him (O'Donnell) some iron tablets for treatment of Fenny who had anemia (R. 28, 29). Ushihara turned Maj. Grubb from the hospital when Uchida had put the hospital out of bounds for officers (R. 30).

As to Specification 1: Pvt. Broughton, a British PW, stated that two days after the incident referred to by him (Shito, 8) he was taken before the camp commandant who admonished him. Terada made him kneel down in the camp commandant's presence and struck him in the face with his clenched fist five or six times, cutting his mouth inside (Ex. 8).

As to Specification 2: Pvt. Lomasney, a British PW, stated that he brought to camp one of the Red Cross tins of beef which the Japanese sentries had eaten and turned it in; he wrote and signed a statement about it. After this incident he was closely watched and hit for no apparent reason. On 6 March 1943 the Korean overseer hit him and several other men. The overseer stated he was lazy. The sentry intervened but only to assist in the hitting. He (Lomasney) pushed the overseer away. The sentry then smacked him several times and kicked him in the groin. He pushed the sentry away and the guard commander arrived at the instant. About 1230 he was placed in the guardroom. That night Terada sent for him and questioned him; he hit him and kicked him several times; he also beat him quite a lot with his sheathed samurai sword (Ex. 52, 53). Corp. Doyle also described the incident (R. 239). Terada stated he called Lomasney to his office for questioning. He did not state he hit him or kicked him. He admitted he pulled his sword from the sheath and went through a motion with the sword frightening him. He quickly put the sword away. He did not direct the sword directly toward Lomasney and did not hit him with it (Ex. 120).

As to Specification 3: Lt. Fuller, a British PW, stated that one morning in early summer of 1944, he and eight other PW officers went to work in the garden. Among them were Lt. Col. Cardew, Lt. Col. Woodbridge, Capt. Prince, Lt. Bell, Capt. Fawcett and Lt. Turner, all British or Australian PW's. The work was entirely voluntary. During the morning break they were all sitting in a small hut which had one small window. Terada came to the hut and entered the door from behind. He struck Fuller a heavy blow on the face with his open hand; he went along the row and struck the others in the same manner. A few minutes later an interpreter arrived and told them they had been struck because they did not stand up and salute Terada (Ex. 34). Lt. Turner, a British PW, states there were about thirteen officers including himself in the party. He

Restricted

mentioned the same names as Lt. Fuller except that of Capt. Fawcett. He stated Terada slapped the heads of each officer with his open palm (Ex. 82). Maj. O'Donnell, British medical officer, also related the incident (R. 31). Col. Elrington, a British PW, stated Terada lost his temper and slapped ten officers in the face for failing to salute him when on a bicycle at a distance of one hundred yards (Ex. 23). Terada admitted that in April or May 1944 he went out to the garden. He stated the PW's out there saluted, but there were two PW's in the shed sitting and smoking and they did not salute. They were British officers, one was Lt. Col. Cardew. He asked why they did not salute and they said they didn't see him. He became angry and said they could see him. He struck both of them once on the back of the neck with his open hand. He had ridden up on his bicycle when he saw the PW's in the shed (Ex. 121).

As to Specification 4: See Ushihara, 1.

As to Specification 5: See Ushihara, 2.

As to Specification 6: Corp. Chute stated Terada stole Red Cross parcels. He personally cleaned out his rubbish bin and saw several half-empty and full tins of Red Cross food thrown out. These items included tins of milk, meat and other food (Ex. 12). Lt. Fuller stated he often saw Terada either go to his house with one of the PW Red Cross parcels, or order one of the guards to take it there (Ex. 34). Pvt. Heatherhill stated Terada was responsible for withholding Red Cross supplies. While on cleaning fatigue at his quarters he removed empty Red Cross containers from his refuse bin on numerous occasions (Ex. 41). Lt. Mummy stated three times he saw Terada walking behind two Korean guards carrying a bully beef box from the cobbhouse to his quarters, and leave it there (Ex. 63). Corp. Gray and Pvt. Taylor stated they were on fatigue party emptying the bins where Terada lived with his wife and children. The party found the equivalent of thirteen Red Cross parcels. Some parcels still had food in them (Ex. 79, 144). Corp. Carey stated he cleaned out Terada's quarters a couple of times and found empty tins which had contained Red Cross supplies, food, cigarettes, chocolate, milk, cheese, etc. (Ex. 145). The Red Cross food and supplies referred to were clearly intended for the use of Allied PW's. Other affiants have corroborated the foregoing (Ex. 10, 11, 33, 38, 39, 98, 134, 135, 144; R. 239, 240).

As to Specification 7: Pvt. Bolger and Corp. Doyle, Australian PW's, stated Terada used to incite guards before they left on working parties. After he delivered a pep talk, PW's would have a particularly bad day and were sure to be bashed (Ex. 5; R. 237). PW Corp. Chute stated Terada instructed guards when he was orderly officer to be more brutal and severe. He frequently meted out beatings and on one occasion bashed him for laughing at roll call (Ex. 12). Pvt. Dahill stated Terada beat Sgt. Lee, British PW (Ex. 19). Sgt. Smith stated that Terada bashed him severely with several heavy blows on his face and body at a time he was suffering from beriberi and was slow in saluting. He saw Terada bash Pvt. Nightingale with a sword scabbard, striking him at least thirty times on the face and head. He fell to the ground and Terada repeatedly struck him on the stomach with the sword scabbard. He was carried away unconscious, and a few days later was admitted to the hospital. It was common occurrence for Terada to brutally assault PW's for no apparent reason (Ex. 109). Maj. O'Donnell stated he had been in the hospital with an abscess on his leg. Terada prodded him out about 5 a.m. with a wooden sword for not standing up at roll call. O'Donnell went to his own quarters and Terada took this as an insult (R. 31). Corp. Doyle stated if PW's didn't salute, Terada came over and struck them; he punched him (Doyle) in the stomach for saying he had a bad stomach (R. 236). Other affiants have corroborated the foregoing (Ex. 11, 79, 98, 111, 134, 137).

TAKUMA

As to Specification 1: Pvt. McKenzie, a British PW, stated he was in charge of a work squad. A civilian foreman told them to fall out. Another foreman came up and wanted them to do another job. The squad refused, so a guard was summoned. McKenzie told the guard they had been given permission

Restricted

Restricted

to fall out, but the civilian foreman denied it. The corporal in charge of the guard called McKenzie a liar and hit him three or four times on each side of the face with the metal scoop end of a soup ladle. His ear was split and deep grooves were left in his face. The corporal ordered the sentries to hit all the other thirty men in the squad, which they did with their fists. A Korean sentry hit and knocked out PW Walters (Ex. 55). Lt. Fuller, a British PW, stated the incident happened about February 1944; Takuma was the corporal of the guard and ordered the party, about twenty men, to fall in. He had McKenzie come to the front. He picked up a soup ladle and struck him at least six times on each cheek. The blows caused wounds and he bled profusely. The ladle was a piece of wood with an empty meat tin nailed on the end, and pointed ends of nails protruded. Maj. Barr remonstrated with Takuma. Following the attack on McKenzie, Takuma gave instructions to the six Korean sentries to lay into the rest of the two ranks. The sentries attacked the men and gave them violent open-hand blows on the face. One sentry, "Smoko", leaped off the ground so he could get more force behind his blows. Two men fainted as a result of his blows, and each was bleeding from the mouth. Smoko kicked one PW while he was lying on the ground, and then picked him up and struck him in the face again. He then did the same thing to the other PW that had fainted (Ex. 34). The incident was also described by others. Takuma, also known as "Scoops", was definitely identified as the corporal of the guard who beat McKenzie and then ordered the sentries to beat the rest of the party. The number of PW's in the party was estimated as from twenty to thirty. Some of the other PW's in the party beaten were PW's Greenless, Kay, Barlow, Fitzgerald, Elliott, and Colliers. All were British PW's (Ex. 3, 5, 8, 38, 70, 77, 85, 109, 137).

As to Specifications 2 and 3: Lt. Col. M. Elrington, senior British PW, stated in a report, dated 8 September 1945, on the conditions at the POW Main Camp, Keijo, from September 1942 to September 1945, that Takuma was guilty of hitting three officers, namely Capt. F. K. Beattie, Lt. B. M. Wandle, and Lt. E. W. Ingham and that Capt. Beattie was lying in sickness on his mat at the time he was struck. He stated the evidence of these incidents is given at first-hand by the persons concerned in "attached papers" (Ex. 23). However, the attached papers concerning these three officers were not submitted in evidence.

As to Specification 4: Lt. Hamilton stated on 1 April 1944, he requested Capt. Fawcett, an Australian PW who spoke fair Japanese, to speak to Takuma, protesting the attempted removal of a rice bag screen from the guard hut window by a Korean in violation of orders. Takuma flew into a rage and savagely attacked Capt. Fawcett, striking him on the face and hand (Ex. 39). Maj. Procter stated that Capt. Fawcett complained to him about having been struck by Takuma on 1 April 1944 (Ex. 70). Sgt. Smith stated that both Lt. Hamilton and Capt. Fawcett described to him how Takuma had struck Capt. Fawcett on the face with his fist. Smith saw Capt. Fawcett's badly cut lip (Ex. 109).

As to Specification 5: Corp. Fredericks, an Australian PW, stated that about September or October 1944, Takuma knocked him down with a stick and broke his jaw for whistling while working (Ex. 33). Maj. O'Donnell stated as far as he could recollect Corp. Fredericks never had a broken jaw (R. 87).

As to Specification 6: PW Bolger stated Takuma on every meal parade used to belt the senior rank, should anyone fail to bow to him (Ex. 5). Lt. Col. Elrington, senior British PW, stated Takuma was apt to go off the handle and start beating people up regardless of rank. He stated there were numerous occasions when he behaved in this fashion (Ex. 23). Sgt. Smith stated Takuma very severely bashed and kicked Pvt. Slater, an Australian PW. He struck him several heavy blows on the face with his fist; he fell to the ground bleeding badly from the nose and mouth. He then struck him some heavy blows on the body with his rifle butt and kicked him in the stomach. Slater was rendered unconscious and carried to his quarters. Takuma had accused Slater of not saluting properly (Ex. 109).

Restricted

Restricted

MIZUGUCHI

As to Specification 1: Lt. Col. Schwartz, M.C., U. S. Army, on his arrival at Jinsen in April 1945, stated he was designated to assist Mizuguchi, Japanese doctor. Lt. King was admitted to the camp hospital on 29 April 1945. He was very weak from amoebic dysentery since his imprisonment in the Philippines. Mizuguchi permitted King to stay in the hospital only five days, and then moved him to quarters. At that time he was desperately ill, suffering from beriberi, pellagra, and amoebic dysentery. He complained of abdominal cramps; his diarrhea was such that he had to move his bowels six or eight times a day. He was unable to walk from the dispensary to his barracks without assistance. A medical corpsman had to help him to the barracks. Mizuguchi was aware of King's condition. In the quarters King was given vitamin B tablets. The vitamin tablets did him no good at this time as he eliminated everything he took by mouth. He (Schwartz) made several requests direct to Mizuguchi for amoebicides for King. They were needed in his condition, but each request was refused. King was in need of bland diet and intravenous salt solution, glucose, and intensive nursing. Mizuguchi was aware of his needs. At one time, figuring the food content would help him, he (Schwartz) requested plasma for King. The plasma was available on the shelf in the dispensary but requests were refused by Mizuguchi. In the next eight or ten days King grew weaker and more run down. In the last stages of his illness, his diarrhea caused him to lose much of his body fluids. Just prior to his death he was forced to move his bowels every ten minutes. He requested that King be hospitalized at least seven times in the last eight or ten days of his life. The answer in each case was "No". Two days before he died he made a final request again through the interpreter, Lt. Col. Engelhart. The answer Mizuguchi gave was, "Let him die". King died of exhaustion weighing 80 to 90 pounds. King's death was attributable to neglect and maltreatment on the part of Mizuguchi. He was aware of King's bad condition. When the war was over, the Japanese turned over to him (Schwartz) a considerable quantity of Red Cross medical supplies, dressings, sulfa drugs, quinine, vitamins and plasma, which would have been adequate to take care of all PW needs, had they been issued when requested. (Ex. 74). Capt. Alsobrook, U. S. Army, stated he helped King over to the dispensary on 15 June 1945. After waiting at least an hour, Mizuguchi saw King and felt his stomach. Soon he (Alsobrook) heard two sounds of blows. King groaned. He helped him back to his quarters. As soon as they got out of the dispensary, King told him that Mizuguchi, "the dirty son-of-a-bitch", hit him in the belly, and had ordered him to go back to work. King held both of his hands over his stomach most of the day and night. He changed King's clothes and noticed a great deal of blood on his pants. King died very shortly thereafter. He believed King died from dysentery aggravated by the blows on his stomach (Ex. 1). Col. Beecher, USMC, the senior American PW, stated that Col. Schwartz asked Mizuguchi for medicine for King which was available through the Red Cross, but Mizuguchi refused, stating King was attempting to dodge work. When the Japanese were informed several days before his death that King was dying, Pvt. Sasaki, Japanese medical orderly, in the presence of Mizuguchi replied, "Let him die". King died of amoebic dysentery on 15 May 1945 (Ex. 4, 91). Col. Kramer, U. S. Army, stated that Col. Schwartz had made repeated requests to Mizuguchi for medicines for King. Mizuguchi insisted that King was not sick at all, but merely dodging work (Ex. 47). Lt. Col. Kriwanek, U. S. Army, King's platoon leader, stated King was suffering from dysentery and was very sick. Mizuguchi said there was nothing wrong with him and marked him duty, but Kriwanek did not send him out as he knew he was too sick to work. Mizuguchi in refusing him medical attention was directly responsible for King's death (Ex. 48). Lt. Col. Montgomery, U. S. Army, stated he saw King when he was moved from the hospital to the barracks. He was in very bad physical condition. Col. Schwartz requested Mizuguchi to hospitalize King again and secure certain needed medicines. Mizuguchi refused these requests. The morning King died Col. Schwartz made another request of Mizuguchi to admit him to the hospital, but was refused. King died in the barracks about a week after he had been removed from the hospital. He (Montgomery) was informed by a fellow PW that King was struck or kicked by Mizuguchi on one occasion when he went to the dispensary for treatment. There was a small cellar dug right in front of the hospital used as a storeroom for medicines. It was the opinion of Cpl. Schwartz and PW Goddard, medical corpsman, that there were medicines available at Jinsen which were denied King and Brundrett. He (Col. Montgomery) believed medicines could have been secured from Keijo or from the hospital in

Restricted

Restricted

Jinsen to supplement those available at the camp hospital. In his opinion, Mizuguchi was responsible for King's death in denying him any semblance of care required, and in moving him from the hospital when it was obvious he was in no condition to be moved, over the protests of Col. Schwartz (Ex. 57, 105; R. 540-551). PW Goddard, American medical corpsman, stated Red Cross medicines were received but Mizuguchi would not issue them for use of PW's (Ex. 36). Other affiants corroborate the foregoing (Ex. 17, 110, 124, 127, 136).

As to Specification 2: Lt. Col. Schwartz, M.C., U. S. Army, stated Capt. Brundrett was seriously ill from beriberi and dysentery when he arrived at Jinsen in April 1945. He had to move his bowels six to eight times a day. He had a severe case of edema on his ankles and feet; his feet were swollen twice the normal size. He could not wear his shoes and had to walk barefooted. He was one of the first men brought to the sick bay. He was discharged from the hospital the same time as King, although very sick. He was kept in quarters for three or four weeks and did not work; his condition remained unchanged. About 1 June 1945 he began to show a swelling and pitting edema of the lower extremities up to the waist. He requested that Brundrett be readmitted to the dispensary and this was done. After admittance there was a rapid increase in edema and a generalized anasarca. About a week after readmittance he asked Sasaki, the Japanese medical orderly, for plasma. Sasaki took it from the shelf to give it to him, but before he administered it, Mizuguchi refused to allow the plasma to be given. At the time of refusal, he and Col. Engelhart were present. He made four or five more requests for the plasma, but was refused. Two or three days before Brundrett's death, when he was in an unconscious condition, the plasma was given him, but the case was so hopeless that he (Schwartz) did not use it. In the next stages of his illness, Brundrett was in a desperate condition. Because of excess fluid in his peritoneal cavity, Brundrett suffered respiratory embarrassment and was forced to rest constantly in a sitting position. He (Schwartz) requested instruments with which to withdraw the fluid, but was refused them. Four or five days before his death Mizuguchi gave him a spinal needle, and he (Schwartz) drew off approximately two quarts of fluid. Brundrett lay in semiconscious state the last week of his life and died on 4 July 1945. Brundrett needed amoebicides. He requested them four or five times but Mizuguchi refused. Sasaki, the medical orderly, purchased some kind of Japanese medicine from the local drugstore; he (Schwartz) did not know whether the powder was an amoebicide. He requested by letter to the Camp Commandant that Brundrett be removed to a better hospital. This was refused and Mizuguchi severely chastised him for "going over his head" in making the request. The death of Brundrett was attributable to the neglect and maltreatment of Mizuguchi who knew his condition, (Ex. 74). Col. Beecher, USMC, stated that Col. Schwartz begged Mizuguchi for plasma for Brundrett which was available through the American Red Cross (Ex. 4, 91). PW Goddard, medical corpsman in charge of the enlisted personnel at the hospital, stated that Mizuguchi refused to let Col. Schwartz use plasma and other medicines, which were there, and as a result Brundrett died (Ex. 36). Col. Kramer, U. S. Army, stated Col. Schwartz made repeated requests for medicine for Brundrett, but without avail. Brundrett died for want of medication which was known to be available to Mizuguchi; if he had seen fit to issue it (Ex. 47). Lt. Col. Montgomery, U. S. Army, stated Brundrett was removed from the hospital on Mizuguchi's orders when it was obvious he was suffering from some deficiency disease causing noticeable swelling of his legs and body. He could not get his shoes on and his face was puffed up. Col. Schwartz requested on several occasions that Brundrett be permitted to return to the hospital and that he be given medicines which were available and under Mizuguchi's control. Despite Col. Schwartz' efforts, Mizuguchi would not make medicines available to Brundrett or admit him to the hospital. Finally after his condition became so bad, he was admitted to the hospital. After about a week or ten days in the hospital, Brundrett died. He (Montgomery) attributed responsibility for the death of Brundrett to Mizuguchi who failed to assist Brundrett in any way and who removed him from the hospital to the barracks when his physical condition did not permit it (Ex. 58, 105; R. 537-549). For additional evidence as to the availability of medicines, see Mizuguchi, 1. Other affiants corroborate the foregoing (Ex. 17, 78, 110, 124, 127, 136).

(p 36 of 81, Noguchi Case #181)

Restricted

Restricted

As to Specifications 3, 4, 5: Col. Kramer stated about June 1945 a Japanese newspaper had been brought into camp, and he was accused of having brought it in. Col. Engelhart, a Japanese language student, was sitting in his quarters reading it when a Japanese guard saw him and took it from him. The Japanese guard slapped Col. Engelhart and Col. Kramer in the presence of Mizuguchi. Col. Engelhart was kicked in the head repeatedly. The next morning at reveille formation, Mizuguchi administered a beating to Col. Engelhart, Col. Beecher and himself. Each was knocked down at least twice during the beating (Ex. 47). Col. Engelhart stated Mizuguchi knocked him down at least half a dozen times and drove his teeth through his lip. As he was attempting to rise, he kicked him in the side of the head, rupturing an eardrum and caused him to be completely deaf in his left ear the following two months (Ex. 26). Col. Beecher stated he was severely beaten by Mizuguchi at the same time, because as senior American officer, he had complained about the treatment of the other American officers (Ex. 4). Commander Granston, U. S. Navy, saw Mizuguchi beat Col. Beecher with his fists. Col. Beecher was suffering at the time from a huge carbuncle on the back of his neck. The blows were so severe that Col. Beecher fell to the ground; Mizuguchi then kicked him with his boots (Ex. 37). Lt. Col. Kriwanek, U. S. Army, stated Mizuguchi beat Col. Beecher unmercifully, knocking him to the ground, and while on the ground, kicked him in the face, stomach and entire torso for about five minutes; his face was indescribably swollen, and his lips cut (Ex. 50). Col. Schwartz, M.C., stated Mizuguchi severely and brutally beat Col. Engelhart for ten minutes with his closed fists in the face; he knocked him to the ground and kicked him about the head and neck while on the ground. Each time Col. Engelhart rose to his feet, Mizuguchi knocked him down with his fists and kicked him again. Col. Engelhart suffered lacerations about the head and face and a ruptured eardrum. He treated him for these conditions for the duration of the imprisonment. Col. Engelhart was suffering from emaciation, malnutrition and general debility at the time. Mizuguchi repeated the attack on Col. Beecher similar to the attack on Col. Engelhart. He had been treating Col. Beecher for a carbuncle on the back of his neck and the attack by Mizuguchi reopened the carbuncle widely and delayed healing considerably. At the time of attack Col. Beecher was suffering from severe beriberi (Ex. 74). The beatings by Mizuguchi upon Colonels Beecher, Engelhart and Kramer were also described by other witnesses (Ex. 16, 71, 81, 90, 91, 93, 105, 110, 124, 136; R. 539).

As to Specification 6: Lt. Col. Montgomery, U. S. Army, stated that Mizuguchi severely beat Major Johnson on the head and face with his fists until Johnson fell to the floor; he then kicked him in the body several times. The beating and kicking lasted three or four minutes. Major Johnson was in poor physical condition at the time suffering from dysentery and diarrhea. The beating was at the evening roll call, and was inflicted because there had been a mistake in counting off in Johnson's squad (Ex. 105; R. 539). The beating occurred in May 1945. It was also described by Major Chunn, U. S. Army (Ex. 92). Col. Schwartz, M.C., U. S. Army, stated Major Johnson had been seriously ill for months when Mizuguchi severely beat him, but he did not witness the beating (Ex. 74).

As to Specifications 7, 10, 11: Capt. Gibbs, British PW medical officer at Jinsen since September 1942, stated that because of the shortage of matches, Corp. Lee, a British PW, put a lighted cigarette down just before evening roll call in the winter of 1944. A Japanese guard saw the cigarette, and Lee was sent to the guardhouse and made to stand at attention. He was suffering from beriberi, and it was impossible for him to control his legs; he had been under his (Gibbs') care for some time. He interceded, and Lee was allowed to come back to the hut (Ex. 35). PW Burgess stated Mizuguchi ordered Lee to stand at the guardhouse out in the cold for one hour (Ex. 9). The next morning at roll call Mizuguchi repeatedly hit Lee across the face with his open hand. He then struck Sgt. Herbert, Lee's squad leader, several times on the face, knocking him down and breaking his false teeth; he kicked him while down. Mizuguchi then walked to Major Holohan, the senior officer in camp, and told him through an interpreter that he (Holohan) was responsible for the behavior of the entire camp. He struck Major Holohan across the face about a dozen times, knocking him down and breaking his glasses. He suffered a haematoma of the lips which lasted ten to fourteen days. All three of these assaults took

Restricted

Restricted

place at the morning roll call (Ex. 35). Major Holohan, British PW, stated that at the morning roll call formation Mizuguchi reprimanded Lee and Herbert, and then struck them several times on the face. Herbert had his artificial teeth broken; he fell down and was kicked several times. Mizuguchi ordered him (or Holohan) to warn all ranks that they would receive similar treatment in the future for infringement of Japanese regulations, and then struck him several times on the face, knocked him to the ground and broke his spectacles. Lee, Herbert, and he were all ordered to stand at attention outside the guardroom for three hours. Mizuguchi treated him in the most brutal manner, although he (Holohan) was 54 years old and the senior officer in camp (Ex. 42, 43). The mistreatment of Major Holohan, Herbert and Lee by Mizuguchi was also described by other affiants (Ex. 9, 13, 29, 35, 71, 73, 76, 88, 104, 124, 127, 136, 137).

Major Holohan also stated that on a prior occasion about September 1944, because he insisted on interviewing the camp superintendent to complain of Mizuguchi beating Capt. Reeve (Mizuguchi, 8), Mizuguchi struck him several times on the face with all his strength and continued to strike him until he was driven across the office floor. Finally he was pinned against the table and struck again. Mizuguchi was a powerfully built man (Ex. 42, 43).

As to Specification 8: Capt. Reeve, British PW, stated on morning roll call 8 September 1944 he took a pace to the rear of his squad to blow his nose. Mizuguchi was taking the roll. The Japanese sergeant reported his action to Mizuguchi who sent for him immediately after roll call. Reeve explained his action to Mizuguchi through the interpreter, but Mizuguchi hit him with all his force twenty times with clenched knuckles, badly lacerating his lips and side of mouth. He finally kicked him with all his force on both ankles (Ex. 72). Major Holohan stated he did not witness the beating, but it was reported to him (Ex. 42, 43).

As to Specification 9: PW Goddard, American medical corpsman, stated he was in charge of enlisted personnel at the hospital. The second day the PW's were in camp, Mizuguchi beat him for trying to get medicine for the men (Ex. 36). The American PW's arrived in camp in April 1945 (Ex. 74).

As to Specification 12: Tech. Sgt. Sedlak, an American PW, stated that in the spring of 1945 Mizuguchi hit him with his fists and when he fell to the ground, he kicked him in the ribs and face for smoking outside the barracks the day before. The beating lasted fifteen minutes (Ex. 75). Col. Schwartz, U. S. Army, stated he witnessed the beating of Sedlak by Mizuguchi (Ex. 74). Lt. Col. Montgomery, U. S. Army, and others also related the incident (Ex. 81, 91, 105, 126; R. 539).

As to Specification 13: Col. Schwartz, M.C., U. S. Army, assistant to Mizuguchi, stated that Mizuguchi never permitted him to use the stethoscope. A British PW ingeniously made one for him, but the first time he appeared in the dispensary with it, Mizuguchi reprimanded him and forbade him to use it or to bring it to the dispensary again. About twenty American officers were older men and needed glasses. He requested lenses but was told all were used by Japanese Army. At end of war he discovered there was an optic shop one block from camp well supplied with lenses and grinding apparatus. Several times he requested sick men be sent to the hospital. This request was refused with explanation that the nearest hospital was in Keijo. There was a fairly well-equipped Japanese civilian hospital about three blocks from camp. Many men had multiple skin lesions and men reported daily for dressings. He was given a piece of gauze about one foot square at sick call daily. This was barely enough to dress one man's infections. When PW's realized they could not be dressed at sick call, they stopped coming. At no time was he furnished sufficient ointments and antiseptics. When the war was over the Japanese turned over to him a considerable quantity of Red Cross medical supplies, dressings, sulfa drugs, quinine, vitamins and plasma. This would have been adequate to take care of all PW needs, had they been issued when requested. Virtually every day sick PW's were forced to go to work. The sick men were arbitrarily taken off the sick list in spite of his protests (Ex. 74). Col. Beecher, senior American PW, stated that Mizuguchi permitted an inexperienced Japanese soldier to perform amateur operations on PW's who could have been properly treated by Col. Schwartz and thus saved

Restricted

unnecessary suffering (Ex. 4). Capt. Gibbs, M.C., British Army, stated that, according to Japanese standards, a man was not regarded too sick to work unless he was unable to walk. During the whole time he was medical officer in camp, he had a continual struggle with Japanese authorities, to get sick men excused from work. He stated the medical inspection room was well equipped with drugs, all labeled in Japanese to prevent use by British medical officers (Ex. 35). PW Goddard, the American medical corpsman, stated Red Cross medicines were received but Mizuguchi would not issue them for PW use (Ex. 36). Major Holohan, the senior British officer, stated that when Red Cross drugs arrived, the Japanese so strictly controlled them that British medical officer, Capt. Gibbs, had great difficulty in obtaining essential drugs for very sick men, and then not sufficient for his needs (Ex. 42). Col. Kramer, U. S. Army, stated that during the period Mizuguchi was medical officer, virtually no medical facilities were provided. They had dozens of PW's in urgent need of minor dressings, but Mizuguchi denied every request, yet medical supplies clearly marked "American Red Cross" were used by Mizuguchi for treating Japanese soldiers. He personally witnessed such use of Red Cross supplies by Mizuguchi (Ex. 47). Lt. Col. Montgomery, U. S. Army, stated that Mizuguchi controlled the issue of medicine to the hospital, and in spite of Col. Schwartz' repeated requests for medicines, bandages, etc., they were invariably denied by Mizuguchi. There was a small cellar dug right in front of the hospital used as a storeroom for medicines. PW's were also limited to one doctor in the hospital by order of Mizuguchi. There were about ten qualified American doctors among the PW's who could have assisted Col. Schwartz, and for them there was a great need. They did non-medical work while about sixty percent of the prisoners were sick (Ex. 105; R. 540, 548). Lt. Wheeler, U. S. Navy, stated that Mizuguchi deliberately refused on many occasions to give medical attention to suffering American PW's. He deliberately withheld American Red Cross medicines from PW's (Ex. 110). Denial and refusal of available medical supplies for use of PW's and sending sick PW's to work was also related by other affiants (Ex. 17, 71, 91, 137). PW Staff Sgt. Read, Australian, stated he was refused medical attention for blood poisoning. He received no medical treatment whatever from Japanese medical authorities (Ex. 71). PW Feerick, British, stated Mizuguchi assaulted him on three occasions. The first time he hit him behind the ear, knocking him out of ranks. He beat him about the face with his closed fists until he was nearly unconscious. The second and third times he assaulted him because he did not have his fingers straight while standing at attention. He jumped on the bed and hit him about the head with his closed fists until almost unconscious (Ex. 29). Many other affiants have mentioned the great number of beatings by Mizuguchi of PW's not referred to above (Ex. 4, 29, 36, 37, 47, 73, 76, 78, 110, 137). Tadashi Mori stated he was Japanese medical sergeant at Jinsen from 24 June 1943 until shortly before the end of the war; at roll call in May 1945, he saw Mizuguchi slap an American squad leader across the face with his hand (Ex. 127); he never saw Mizuguchi compel PW's to perform arduous labor when physically unfit to perform such labor (R. 380); he never heard or saw Mizuguchi deny and refuse sick PW's adequate and available medicines and medical treatment (R. 381).

As to Specification 14: Lt. Col. Beecher, USMC, senior American PW, stated that Mizuguchi forced him, under threat of physical violence, to sign a false death certificate that King had died despite treatment by the Japanese (Ex. 4, 91). (For true cause of King's death, see Mizuguchi, 1). Lt. Col. Montgomery, U. S. Army, stated he entered the room and heard Mizuguchi, through the interpreter, Kitaoka, insisting that Col. Beecher sign the death certificate that King had died of heart failure. Col. Beecher protested that he, as a line officer, was not capable of making a diagnosis and should not be required to make a statement regarding causes of death. He suggested that medical officer, Col. Schwartz, was the person who should sign the certificate. Mizuguchi became infuriated at Col. Beecher's refusal to sign the certificate and threatened to beat him, shaking his fist in his face, and stated through the interpreter that he was ordering him directly to sign the certificate as was written. After continual threatening, Col. Beecher finally signed, stating that he had done so because he was ordered to. Col. Beecher was suffering from a carbuncle on his neck and it had been incised without anesthesia. He had a hole in the back of his neck about an inch deep and he was in very great pain. He had a large bandage and was not in a position to have a good beating handed to him at that particular time (Ex. 57; R. 536, 537). The Japanese interpreter, Kitaoka

Restricted

Restricted

(Ex. 126; R. 366), and Lt. Isobe, officer-in-charge of general affairs (Ex. 124; R. 334, 335) also described the incident. Col. Schwartz stated Col. Beecher told him the incident occurred a day or two after King's death (Ex. 74).

KUROKAWA

As to Specification 1: Gunner Feerick, British PW, stated in January 1945 Kurokawa examined the tables in the hut and found fault with his. He called him to attention and struck him with his fists about the head and body; he kicked him and broke the table over his head and shoulders. He then made him stand at attention for two hours outside the guardhouse. The temperature was below zero, and he was thinly clad (Ex. 28). PW White stated that about January or February 1945 Feerick was accused of smoking in the hut after hours. Kurokawa sent for him; he was wearing only a pair of shorts. Kurokawa beat him about his face with his hands and fists and made him stand at attention during the beating. He then made him stand at attention in the cold two hours (Ex. 88).

As to Specification 2: Not Guilty.

WATANABE

As to Specification 1: PW Bulmer stated Pvt. Knowles, a British PW, became ill about August 1944 and vomited blood. Capt. Morris, British M.C., tried to get him into the camp hospital but he was not admitted until about two months afterward. He was in the camp hospital for about two weeks and then sent to work. About the end of March 1945 he was sent to a civil hospital (R. 145). PW Broughton stated that Knowles was obviously ill and unable to stand work at the factory. He frequently complained, but was made to carry on. He collapsed and had to be taken to the hospital (Ex. 7). PW Dahill stated Knowles became ill about December 1944, coughing blood, but received no medical treatment from Japanese medical sources. About the middle of March 1945, he was removed to the civil hospital. Capt. Morris tried to visit him there, but was refused permission (Ex. 20). Capt. Kinloch, senior British PW, stated Knowles spent several months in the camp hospital where he was treated by Capt. Morris. The latter informed him that Knowles was suffering from tuberculosis and as there were very few medicines in camp the Japanese transferred him to the civil hospital where he could be X-rayed and properly treated. There conditions were exceedingly bad and Knowles died. No one, not even Capt. Morris was allowed to visit him there (Ex. 46). PW Walters stated Knowles became ill about the end of 1944 and was taken to the civil hospital early in 1945 after a delay of about six weeks, during which the Japanese did nothing to have him moved (Ex. 86). Capt. Morris, M.C., stated Knowles died after a four months' illness in the civil hospital where he was treated abominably (Ex. 95). Corp. Doyle stated Knowles died in Konan Hospital about a week after he was moved there from the camp hospital (R. 278). PW Barlow also described the ill treatment of Knowles at the civilian hospital (Ex. 2).

Dr. Tabata, superintendent of the Nippon Chisso Hiryo Company Hospital at Konan, stated he assigned Watanabe to work at the Hongu Hospital, branch of the main hospital. The main PW camp at Keijo requested a doctor be appointed from the Company as doctor at the Konan Camp. Tabata assigned Watanabe that additional duty, and the main PW camp at Keijo recognized Watanabe as the camp doctor. Some PW's were transferred to the main hospital and Dr. Watanabe consulted with section chiefs of the main hospital when this was done. The doctor of the main hospital took charge of the PW patients there. Dr. Miyazawa, not Watanabe, was responsible for the treatment of the PW [Knowles] that died at the main hospital. The Army furnished some medicine to the PW camp and the Company furnished some; medicine was sent from the Company to the PW camp every week at Watanabe's request; sometimes the Company could not send all the medicine he requested. The Konan Camp authorities could have authorized a PW doctor or medical orderlies to visit sick PW's at main hospital and treat them; he did not know whether Watanabe could have granted this permission. It was Watanabe's duty to keep in touch with a PW being treated at the main hospital and to observe his treatment, and to advise the camp commandant as to the condition and treatment of PW's sick in the hospital. He (Watanabe) was liaison officer between the main

Restricted

hospital and the Konan Camp (Ex. 130, 131; R. 432 to 434). There was a shortage of medicines as the war progressed even to hospitalized patients. There was an acute shortage of quinine and atabrine for malaria; emetine for amoebic dysentery, and sulfa pyradine for pneumonia (R. 434). It would have been difficult for Watanabe to go to the PW camp everyday (R. 431); Watanabe was not head physician of the Konan Civil Hospital, nor head doctor at the Hongu Branch Hospital (R. 431),

See also testimony of Watanabe (Watanabe, 3).

As to Specification 2: Not Guilty.

As to Specification 3: PW Dahill stated men were stoking electric carbide furnaces. They were in very poor condition and often fainted with hard work. They were returned to camp without any medical treatment (Ex. 20). PW Fellow stated medical supplies were practically nil. Capt. Morris, British M.C. at the camp, did what he could but was hampered by lack of supplies and by the fact that the Japanese medical corporal had the final say as to fitness of PW's. Sick men were often sent to work at the carbide factory (Ex. 30). PW Frazer stated medicines were extremely short and medical conditions bad. The work at the carbide factory was hard (Ex. 32). Corp. Wilkinson, an Australian PW, stated Interpreter Kitaoka, in collusion with the Japanese Medical Officer, sent him to work at the carbide furnaces when he was very ill and weak with stomach trouble. He had nothing to eat for two days and collapsed on the job (Ex. 111). PW Hayes stated he was employed at the carbide factory for the whole period of his incarceration at Kosen. He saw hundreds of men in the last stages of sickness and exhaustion caused through beriberi, dysentery, and semi-starvation compelled to work in the terrific heat of the factory. Part of the hospital treatment of dysentery was three days' starvation. British PW Whittaker died as a result of being compelled to work when suffering from dysentery (Ex. 135). Pvt. Usher stated Gunner Ryder, a British PW, told him he was sick before going to work, and tried to get off, but the Japanese medical officer would not allow him to do so as he had all his fingers in for the working party (Ex. 83).

PW Bulmer stated Watanabe got as many PW's as he possibly could out to work, irrespective of whether they were ill or otherwise (R. 142). PW's worked at the Hongu Factory (R. 149). He was sent to work by Watanabe with a temperature of 103 degrees; he was suffering from malaria (R. 143). PW Ted Roots was admitted to the camp hospital after collapsing at work; he lay there for about six or seven weeks without medical attention suffering from pneumonia and pleurisy; he could not sit up; Capt. Morris tried to get him admitted to the civil hospital and eventually he did (R. 148). Capt. Morris told him (Bulmer) that he had classed nineteen PW's as unfit for work and kept them in; Watanabe sent them to work; he did the same about four times. He kept Capt. Morris from coming near the medical inspection room. He also gave orders that no man would report sick with diarrhea, and these orders were read to each squad (R. 162).

Corp. Doyle, Australian PW, stated that PW Thorburn had a temperature of 101 degrees and Watanabe sent him to work the day he had malaria (R. 258, 271). He (Doyle) was vomiting and had a touch of diarrhea and was sent out by Watanabe to stoke furnaces for three days. It was useless to go on sick parade if Watanabe was on duty (R. 271). Pvt. Sharpe, Australian PW, had a lot of boils all over him; Watanabe squeezed out the boils and sent him to work; he collapsed three or four times while stoking furnaces; the PW's had to carry him back to camp; he always seemed sick either in the stomach or from boils (R. 271, 278). One man had all his fingers bandaged up, but he had to work just the same carrying bags of fertilizer (R. 272, 287). Sgt. Bailey, British PW, and several others were very sick from fish poisoning; he (Doyle) was also sick that night; Watanabe would not excuse them no matter how sick they were, and sent them to work. Sgt. Bailey was made to stoke the furnaces all night (R. 279, 280). Watanabe used to come to camp about three times a week and when the sick parade had more than thirty men he used to whittle them down to about fifteen (R. 287). The PW's nicknamed Watanabe "Yoshi yoroshii shigoto", which means "You are all right to work" (R. 142, 257, 258). Watanabe was employed by the Nippon Chisso Hiryo Kaisha, a factory about one-fourth mile from camp. It was also known as Hongu Kaisha (R. 249, 294). On cross-examination Corp. Doyle stated that some PW's

(p 41 of 81 , Noguchi Case #181)

Restricted

Restricted

may have reported on sick call for the purpose of evading work (R. 289). Watanabe placed PW's on "light duty" carrying fertilizer. There was a great shortage of medicines (R. 283, 284).

Capt. Morris stated that Dr. Watanabe was visiting doctor from the Hongu Factory Hospital; he repeatedly ordered out to work men who were completely unable to perform their duties by reason of fevers of 104 degrees or bad feet or legs. Medicines were generally inadequate in kind and amount. In February 1944 Red Cross medical supplies arrived and eased the situation, except for malaria. The Japanese Medical Sergeant Major was extremely malicious. He insisted on bad methods of treatment, and repeatedly sent to work men who were totally unfit. He (Morris) remonstrated with Capt. Otaki, the camp commandant, about this and was ordered to hand over care of the sick to the Medical Sergeant Major and was banished from the hospital. Capt. Otaki refused to permit him (Morris) to write to either Keijo or the International Red Cross or to write himself, and refused to accept his recommendations as to what medicines were needed. He (Morris) considered that PW's Whittaker and Hayter, who died of pneumonia, could have been saved if sulfa drugs were obtained from Keijo or Jinsen, where they knew they were available (Ex. 95).

Watanabe stated he was on duty at a branch of the Konan Chisso (Carbide) Hospital operated by the Nippon Chisso Kaisha. He was not head doctor of the Company. He was the Company doctor who examined all PW's. The PW's came to work at the factory in September 1943. He saw sick PW's every other day for about two hours. He thought there was enough medicine and different kinds of medicine. The camp had a camp hospital, but PW's who became seriously ill were sent outside to the Company Hospital. He had permission from the camp commandant to remove them and arranged for a special doctor to treat them at the Company Hospital. He had nothing to do with PW's after they were removed to the Company Hospital. He watched PW's at work at the Carbide furnaces once; he thought the work at the furnaces was dangerous and men might be burned. About 10 percent of the men were on sick call (Ex. 122).

See also testimony of Dr. Tabata (Watanabe, 1).

OKAZAKI

As to Specification 1: For evidence of knowledge charged to Okazaki of the offenses alleged in the subspecifications herein, see "Notice to Noguchi and Okazaki re Mistreatment PW's at Jinsen", Noguchi 7, (page 53-55).

As to Specification 1a: See evidence in support of Mizuguchi, 1.

As to Specification 1b: See evidence in support of Mizuguchi, 2.

As to Specifications 1c, 1d, 1e: See evidence in support of Mizuguchi, 3, 4, 5.

As to Specification 1f: See evidence in support of Mizuguchi, 6.

As to Specifications 1g, 1j, 1k: See evidence in support of Mizuguchi, 7, 10, 11.

As to Specification 1h: See evidence in support of Mizuguchi, 8.

As to Specification 1-i: See evidence in support of Mizuguchi, 9.

As to Specification 1-l: See evidence in support of Mizuguchi, 12.

As to Specification 1m: See evidence in support of Okazaki, 1p.

As to Specification 1n: See evidence in support of Mizuguchi, 14.

As to Specification 1o: See evidence in support of Kurokawa, 1.

Restricted

Restricted

As to Specification 1: (See evidence in support of Mizuguchi, 13). Lt. Col. Kriwanek, U. S. Army, stated in July 1945 he was struck by a Japanese guard without warning in the face with his fist. The blow knocked off his glasses, and as he stopped to pick them up, he struck him in the mouth with a rifle butt breaking off two teeth and knocking him to the ground. While on the ground, he kicked him in the groin. He then ordered him to his feet and struck him on the face five or six times (Ex. 49). PW Parkinson stated he heard British PW's Goodwin and Thompson were assaulted by Japanese. He gave Thompson some gauze after the assault (Ex. 65). Lt. Col. Wernitznig, U. S. Army, stated in May 1945 he was forced to stand at attention for several hours. Being in a weakened condition from illness and malnutrition, he was unable to stand at attention for any length of time. As he was ready to collapse, one of the guards unmercifully beat him about the head with a clenched fist, knocking him to the ground (Ex. 87). Gunner Feerick, a British PW, stated that around the end of 1944 some friendly Koreans gave him and some other PW's some "measo" paste to eat. This was reported to the Japanese guard in charge of Pvt. Oshara. Feerick was taken into a hut by Oshara and another guard, named Sammy. He told them he had not stolen any food. He was badly beaten by these two guards. Oshara hit him with the butt of his rifle all over the head and body and kicked him when he was down. Sammy kicked him also when he was down and picked him up for Oshara to knock down again. From this attack he received two black eyes, two badly bleeding ears with damaged eardrums, cuts on his head and bruises all over his body. He was then pushed out of the hut practically unconscious (Ex. 28). This incident was also described by PW Parkinson (Ex. 65). Sgt. Read, Australian PW, stated in the summer of 1943 a Korean guard lost his temper and hit him in the face with his fist and knocked him down three times. While lying on the ground, he dragged his hob-nailed boots over his shins and kicked him in the body, and belted him over the body with the butt of his rifle. As a result he suffered blood poisoning in his right arm (Ex. 71). Lt. Col. Schwartz, M.C., U. S. Army, stated he witnessed a severe beating of Major Allen Steele, a British PW. Steele was reading after hours and was severely beaten about the face for about ten minutes. A Korean guard severely slapped him (Schwartz) in the face for about five minutes for not jumping to attention when a guard, he neither heard or saw, entered the room (Ex. 74). Other instances of unlawful mistreatment, torture, abuse, beating of PW's at the Jinsen Camp during the period 27 November 1942 to 17 August 1945 are related by other affiants (Ex. 22, 26, 34, 42, 43, 68, 75, 105, 136).

Tadashi Mori stated he was medical sergeant at Jinsen from 24 June 1943 until thirty-five days before the end of the war; while he was there, Okazaki stated there was to be no mistreatment of PW's; when medical supplies ran short, Okazaki tried to get more; everything was done to supply PW's with enough food and to satisfy them; Okazaki treated PW's justly and fairly; there were some mistreatments in the camp (Ex. 127).

UCHIDA

As to Specification 1: Not Guilty.

As to Specification 2: Not Guilty.

As to Specification 3: See evidence shown in support of Mizuguchi, 13, pertaining to denying PW's adequate and available medicines and medical treatment and forcing sick PW's to be sent to work, contained in Exhibits 4, 17, 35, 36, 42, 47, 71, 74, 91, 105, 110, 137. See also Exhibits 28, 76. Lt. Col. Montgomery, U. S. Army, stated that Uchida, as Chief Medical Officer for all camps in Korea, did not exercise adequate supervision over Mizuguchi, who was unfitted professionally and temperamentally for his job (Ex. 105).

Noguchi stated Uchida was the senior medical officer in the Korean PW area. It was his duty to visit Jinsen and Konan and see if sanitation and medical conditions there were proper. He visited Jinsen and Konan on his orders. He reported the results of his medical inspections to him. Uchida could not give orders to the Jinsen and Konan medical officer, but he could give his opinion (Ex. 112).

Restricted

Restricted

Uchida stated he inspected the PW camps and thought the proper medical attention and supplies were furnished. He could not give orders to the camp doctors but he could give his opinion on matters relating to medical conditions. He went to the Jinsen and Konan Camps to inspect sanitary conditions of sick PW's at these camps. If conditions were bad or patients were not receiving proper treatment, he could give his opinion on these matters. He made his suggestions to the doctor and camp commander there. He could go to the camp commander and report the medical matter which needed correcting. The latter could order the camp doctor to make the correction. Noguchi was the authority above the camp commander who could order the correction made. Actually it was never necessary to use that means of correcting something. He stated he had no duties at Jinsen PW Camp because there was a doctor there. He went there to inspect the medical records and the condition of the patients. If they needed certain medicine he sent it from the Keijo Camp. If he disapproved of something, he warned the camp doctor. The camp commander could order the change. He had the duty to report to Noguchi the results of the inspection and medical conditions at Jinsen. Any suggestions he made to Okazaki were carried out and the change was reported to Noguchi. He didn't believe he reported any important change at Jinsen. He never heard any bad reports of Sasaki or that he interfered with Col. Schwartz when he was attending PW's (Ex. 115).

Okazaki stated Uchida visited Jinsen at least once a month. He visited to see that the patients and medical facilities were proper. When an order from POW Headquarters was passed down by Uchida, he had to carry it out, but if Uchida gave his advice about medical matters and he thought it was wrong he would object and advise Uchida accordingly. Uchida had authority to advise Mizuguchi if there was anything wrong regarding medical matters. It was Uchida's duty to inquire into conduct of Mizuguchi and correct him if he were wrong in his medical treatment, but it was not his duty to inquire if he were mistreating PW's; that was his (Okazaki's) duty. It was not Uchida's duty to inquire into the cause of the death of PW's. Uchida received the death certificates at Keijo. He did not have a duty to inquire whether proper treatment had been given in case of every death (Ex. 116).

Lt. Col. Monoe, second in command of Medical Section, Chosen Army Headquarters, stated Uchida visited his headquarters almost daily to report health conditions at PW camps and to request medicine and medical personnel (R. 416, 418, 423, 424).

As to Specification 4: Not Guilty.

As to Specification 5: Not Guilty.

As to Specification 6: Lt. Col. Elrington, senior British PW, stated that Uchida refused medical treatment to all officers for the alleged misdemeanors of two officers (Ex. 23). Corp. Fredericks stated PW's received no medicine except an occasional powder and they were made to go to work, whether sick or otherwise (Ex. 33). Lt. Fuller, British PW, stated that they had no medical supplies to speak of for a year beginning September 1942; after that they received American Red Cross medical supplies, but they were withheld on every possible occasion. The Japanese doctor was responsible for a number of deaths due to withholding medical supplies and lack of proper medical attention (Ex. 34). Capt. Gibbs, British M.C., stated Uchida was very reluctant to issue Red Cross drugs, even though they were in his possession in good supply (Ex. 35). PW Bolger stated medical supplies were practically nil for PW's, but medical supplies of usual mixtures were issued to Japanese and Korean guards. Although there were large quantities of American Red Cross supplies in the camp, PW's were given them only in diluted quantities when they were in particularly bad condition. The Japanese medical officer compelled men to work irrespective of their condition (Ex. 5). PW Broughton stated on arrival in Keijo PW Metcalf was suffering from dysentery and was left on an open square on a stretcher in terrific heat of sun for about two hours. He was writhing in pain and delirious. He was carried to a hospital and died about two days later. His condition was reported to the senior Japanese medical officer at the hospital by PW officers immediately on arrival, but he was refused admission to the hospital until

Restricted

Restricted

parade was over (Ex. 8). PW Hamilton stated a number of deaths occurred because of the apathy and lack of skill of Uchida. The Japanese medical service was apathetic and inadequate. Vitamin pills and medical supplies in Red Cross parcels were deliberately withheld for no apparent reason (Ex. 39).

Major O'Donnell, British medical officer, testified as follows: An Irish sergeant had amoebic dysentery in 1943. He tried for a long time to get emetine from Uchida. Eventually when the sergeant got so bad and could live only about forty-eight hours, Uchida got him some (R. 23). Three PW's, Lt. Jakeman, Sgt. Oliver and Furness had post diphtheritic paralysis around January 1943. They either had inadequate treatment or none at all (R. 27, 68). In January 1943 when the temperature was about minus 2 degrees Fahrenheit, it was too cold for the men to work outside. There was no work for them to do and they stood around all day with nothing to do at all. He asked Uchida if he could intercede with Noguchi and allow the men to remain in camp, but Uchida refused to let him do so. There was always danger from pneumonia (R. 27, 28). Some YMCA medicines arrived in camp. They were locked up by the Japanese, and occasionally PW's got a little cough mixture. Toward the end of the war, a couple of days before or after, medicines were given out freely (R. 28, 29). About a year before the end of the war, a large consignment of Red Cross medicines arrived at camp. The consignment contained all medicines, and drugs needed a few surgical instruments. The medicines were locked up by the Japanese, and occasionally small amounts were issued at sick parade. One time he saw a Japanese dentist treating his feet with salicylic acid ointment which he wanted. He asked for some, but was refused (R. 29). Uchida put the camp hospital out of bounds to officers from 26 August to 5 September 1943 because Col. Elrington on his (O'Donnell's) advice refused an injection which Uchida wanted to give him. Uchida put up a sign outside the hospital stating it was out of bounds to officers. As a result Major Leighton who was in the hospital with bronchitis was sent out (R. 30). Sometimes the dentist would keep PW's waiting with raging toothaches for two or three days until he felt like doing an extraction (R. 78). Uchida did nothing about it when he asked for vitamin C or K in food to prevent hemorrhages in the mouths of prisoners (R. 34). About ninety percent of the PW's had worms; PW's were not allowed to wash vegetables properly before cooking (R. 36). Uchida had all the Japanese drugs at his disposal, and at times he was able to get drugs outside (R. 55, 57). The Japanese sentries had better treatment than the PW's because the Japanese were able to procure the right type of diet. When PW's had dysentery, they still had to have rice as there was nothing else to give them. Lack of proper diet had a very delaying action on their recovery from illness (R. 55). It was a matter of weeks before severely ill PW's were sent to the military hospital after a request for transfer was made (R. 55). At no time were there more than three beds in the hospital in camp (R. 56). Uchida's standards of medicine were very low and he was very careless in the attention he paid the sick (R. 44).

See also Exhibits 79 and 80, and evidence in support of Ushihara, 4.

Noguchi stated Uchida was responsible for medical conditions at Keijo (Ex. 112). See also testimony, Lt. Col. Monoe (Uchida, 3).

As to Specification 7: Not Guilty.

As to Specification 8: Not Guilty.

As to Specification 9: See evidence in support of Watanabe, 3.

Uchida stated he inspected work conditions at the carbide factory at Konan after the PW's had begun to work there. His opinion was that the work conditions there were not good for the health of the PW's. It was too hot and dusty working on the furnaces and he so reported to Noguchi. In his opinion Noguchi, and the commander of Konan-Camp, and the factory officials were responsible for keeping the PW's working there (Ex. 113). He stated he inspected the medical records and the condition of the PW's patients at the Konan Camp. Medicine was generally supplied to the Konan Camp from the Nippon Carbide Company. In case of emergency, and the medicine was not available, the Keijo Camp would supply the medicine. He had a duty to report any bad medical conditions he observed

(p 45 of 81, Noguchi Case #181)

Restricted

Restricted

29 August of tubercular meningitis. Pigott was under O'Donnell's care when he died. He (Uchida) had no duties at Seidaimon to PW's although he went to see PW's about once every month and a half (Ex. 113-115).

Satoru Shiraishi stated he was head of the general affairs section of the Seidaimon prison since 10 January 1945. There was a medical doctor at Seidaimon who administered to the criminals; he had doctors, dentists and pharmacists under him all employed at the Seidaimon prison. The prison warden was responsible for furnishing food and clothing to PW's confined at Seidaimon; food at the prison was prescribed by the legal section of the governor general and the warden could not change it (Ex. 129; R. 392, 393).

Lt. Col. Toshio Monoe stated he was second-in-command of the medical department, Chosen Army Headquarters. Uchida was responsible for the health of PW's at Seidaimon who were sent from the camp to work there, but after a PW had been convicted of a crime, and confined at Seidaimon, the responsibility for the PW's health was the prison doctor's and not Uchida's. Seidaimon was not connected with the Army so Uchida had no authority to give orders to prison officers. The only reason Uchida would go to see PW's in Seidaimon was because they were formerly PW's in his camp and he wanted to take care of them. Japanese prisoners were not noted for good food, and there wasn't much medicine (Ex. 132; R. 406, 416, 417).

Masami Utsunomiya stated he was chief jailer at Seidaimon from August 1942 to March 1945. Dr. Honda was in charge of the medical attention of PW's. Noguchi and Uchida visited Seidaimon every month. Noguchi spoke to PW's in a small hall. He gave prison officials orders to send him monthly reports concerning physical condition of PW's, which they did. He remembered Pigott when he left prison, but not when he came back. PW's of Seidaimon did not have enough clothing, heat, medicine, food--enough of anything (Ex. 139, 139a, 140; R. 453).

Lt. Col. Elrington, British PW, stated he did not think that Noguchi had jurisdiction over Seidaimon Prison (Ex. 25).

Noguchi stated he sent Pigott back to Seidaimon in April 1945 because Uchida gave him a medical report stating he was well. He stated the responsibility for the health and feeding of PW's at Seidaimon was the prison warden (Ex. 112).

As to Specification 12: Not Guilty.

As to Specification 13: Not Guilty.

As to Specification 14: Not Guilty.

NOGUCHI

As to Specification 1: Not Guilty.

As to Specification 2: Not Guilty.

As to Specification 3: Not Guilty.

As to Specification 4a: Not Guilty.

As to Specification 4b: Not Guilty.

As to Specification 5: For evidence of knowledge charged to Noguchi of offenses alleged in the subspecifications herein, see "Notice to Noguchi re Mistreatment PW's at Keijo", following Subspecification 5y below. (p 50-52).

As to Specification 5a: See evidence in support of Shito, 7.

As to Specification 5b: See evidence in support of Shito, 8.

(p 47 of 81, Noguchi Case #181)

Restricted

PURL: <https://www.legal-tools.org/doc/>

re stricted

As to Specification 5t: Pvt. Vinall stated about December 1944, he saw Driver Perry, an Australian PW, taken to the medical orderly room by one of the Japanese guards. He returned in about half an hour with bruises, cuts and abrasions on his face, and said the medical orderly, Matteyama, had beaten him up (Ex. 84).

As to Specification 5v: Not Guilty.

As to Specification 5x: See evidence in support of Ushihara, 4;

Uchida, 6; and the mistreatment of sick PWs shown under Terada, 7. Pvt. Danill stated he and PW Hitchen, British, were on sick parade. Hitchen was very thin and coughing blood at the time. The Japanese medical sergeant removed the sick badge from Hitchen's tunic and struck Hitchen many blows about the head and face, cutting his cheek and nose. Hitchen had to go on working parties with the others (Ex. 21). Sgt. Cattell, an Australian PW, stated he was orderly sergeant and heard Noguchi issue instructions to withhold medical supplies from the prisoners (Ex. 134).

As to Specification 5y: See evidence in support of Takuma, 6; and the mistreatment of PW's, other than those sick, shown under Terada, 7. Pvt. Dehill, a British PW, stated he was imprisoned in October 1943 for eight days in solitary confinement and semi-darkness in a small cell for smoking. He was provided with one blanket only, although the weather was bitterly cold. He was not allowed to sit down in the cell and was given very little food and water (Ex. 19, 21). Corp. Fredericks, an Australian PW, stated that about June 1943, he had three ribs broken as a result of a bashing by fists and kicking by a Japanese, known as the Kicker. He also received bashings from a Japanese known as Smiler, Peaches and Cream, and Suki (Ex. 33). Lt. Fuller, a British PW, stated he was subjected to heavy openhand blows on the face by Japanese and Korean guards (Ex. 34). Pvt. Heatherhill, Australian PW, stated he received bashings and beatings from Korean guards many times (Ex. 41). Sgt. Leigh, a British PW, stated a Japanese guard known as Squint Face, slapped him and Sgt. Turner in the face and kicked them about the shins and back. This incident preceded the beating described under Noguchi, 5h (Ex. 51). Pvt. Lomasney, a British PW, stated he was frequently hit and kicked in the groin; PW Dooley was also hit (Ex. 52). Morotomi admitted he slapped three prisoners on the face on different occasions (Ex. 59). Pvt. Smith, a British PW, stated he was struck on the face by a Korean sentry (Ex. 138). Major O'Donnell, British medical officer, stated a sentry cook corporal in the kitchen pointed a bayonet at him and beat him five or six times as hard as he could with his closed fist on the side of his face because he came out of the barracks room with a cigarette (R. 37).

Corp. Doyle, Australian PW, stated a guard, the Pig, struck him across the face and rocked him about just as he was finishing a cigarette; PW Thorburn, Australian, was accused of smoking and smacked by one of the guards across the face two or three times (R. 242); one of the guards belted PW Ridgeway (R. 244). He (Doyle) and Sgt. Pike, Australian PW's, stole some

Restricted

glucose from a barrel. A Korean guard, known as Smiler, hit him (Doyle) about ten or twelve times across the face and then took to Pike (R. 246). A guard struck PW's Marboub, Thorburn and Keatch for stealing sugar, and later they were beaten by the guard commander (R. 247).

Other affiants have mentioned numerous beatings and other abuses inflicted on PW's (Ex. 2, 12, 33, 34, 39, 40, 41, 51, 55, 66, 68, 70, 82, 84).

Notice to Noguchi re Mistreatment PW's at Keijo, Noguchi 5, above:

Lt. Col. Elrington, the senior British PW, stated the main criticism he had of Noguchi's administration was his apparent ignorance of a great deal that went on in camp which should have been brought to his notice. Terada had the habit of dealing summarily with cases which he should have reported and was responsible more than anyone else for delaying and frequently suppressing requests and reports addressed to Noguchi. There were numerous occasions when Takuma beat people up on which no action was taken when duly reported. After repeated complaints to Noguchi concerning Takuma's beatings of PW's, Takuma was eventually removed from camp. He also mentioned the unapproachability of senior responsible officers (Ex. 23).

Lt. Fuller stated there was a great deal of face slapping the entire time. Col. Elrington was constantly complaining, but nothing was done about it. He (Elrington) made a complaint to Noguchi regarding the brutal assault upon McKenzie (Takuma, 1) demanding he be severely dealt with. No satisfaction was obtained. They were simply told it was the responsibility of the British officers to see that the men did not fall out without permission. Col. Elrington made a complaint to Noguchi regarding Terada's striking the officers (Terada, 3). The nine officers were called to the camp commandant's office and were told they had to salute all Japanese officers on all occasions, regardless of distance and even if their backs were toward them. Their protests that they could not see were disregarded (Ex. 34).

Lt. Turner stated Col. Elrington complained to Noguchi regarding Terada (Terada, 3) but nothing resulted (Ex. 82).

PW Bolger stated Col. Elrington made frequent protests regarding Terada inciting the guards to mistreat PW's. Protests were made to Goto, Terada, and Noguchi, but nothing was ever done (Ex. 55).

Corp. Doyle stated Major Beaumont complained to Col. Elrington about the beating he had received (Noguchi, 5p). Elrington usually reported the complaints to the officers at Keijo Camp, but the Japanese laughed about their complaints (R. 246).

PW Smith stated Noguchi knew about some of the poor conditions in camp, and he was seen a number of times by Col. Elrington, and after these visits, conditions improved a bit. The junior Japanese officers were responsible for a lot of the bad conditions in camp, but the Camp Commandant did not know anything about them (Ex. 138).

Major Barr stated he reported the McKenzie incident (Takuma, 1) to Capt. Pacque, contact officer. He knew Capt. Pacque reported the matter the same evening to Goto, general affairs officer (Ex. 3). PW McKenzie and PW Walters also mentioned report of this incident. They stated an order was issued forbidding striking PW's in future with soup ladles (Ex. 55, 85).

PW Broughton stated Terada made him kneel in the presence of the Camp Commandant and struck him with clenched fist five or six times (Terada, 1) (Ex. 8).

PW Walters stated that Gotô on several occasions refused to allow the PW Commanding Officer to make complaints to Noguchi (Ex. 85).

PW Thompson stated the day following his stealing an apple and the resulting beatings inflicted upon him (Shito, 7 and Terada, 4), Noguchi sent for him, gave him a lecture, and placed him in solitary confinement for eight days (Ex. 80).

Restricted

Restricted

Major Procter stated that after his beating (Noguchi, 5q), he complained to the Japanese camp adjutant who became very angry with him for complaining. No redress was offered or obtained (Ex. 70).

Sgt. Catell stated on one occasion he was orderly sergeant and accompanied the orderly officer to get the day's orders. He heard Noguchi issue instructions to withhold Red Cross supplies, mail, medical supplies, clothing etc. from the prisoners (Ex. 134).

Lt. Col. Cardew stated protests were continually made about clothing and food, but little was done to improve the situation. During the whole of 1943 much unnecessary hardship was caused by the lack of medical stores. The Japanese would not allow the International Red Cross to help in this respect until the middle of 1944. The International Red Cross was allowed to visit the camp once annually in November or December. They were rushed around the camp and were shown only what the commandant wanted them to see. There was an Australian Red Cross officer, named Phillips, in camp the whole time, but he was never allowed to do anything nor was he allowed to write the International Red Cross. The Japanese would not recognize Phillips as a Red Cross representative. Noguchi was, in his opinion, responsible for this decision (Ex. 11).

Lt. Fuller stated once a year the Red Cross representative visited camp. The senior British officer had to prepare a list of questions, which was submitted to the Japanese and any question which was objectionable was stricken. The Red Cross visit was a complete farce. The Japanese put on a special show for him; they gave PW's a special lunch; allowed them light work that day; the canteen was well stocked for the occasion, and when the Red Cross representative left, the stock was immediately removed (Ex. 34).

Corp. Gray stated official complaints were made to Noguchi by Col. Elrington regarding Terada appropriating Red Cross parcels (Ex. 144).

Major O'Donnell, British Medical Officer, stated soon after his arrival in camp in September 1942, he wrote a long letter to Noguchi complaining of conditions in the hospital (R. 24). About 26 August 1943 he was sent for by Noguchi and he spoke to him about the difference he had with Uchida concerning Col. Elrington's refusal to receive an injection from Uchida which resulted in placing the hospital off limits to officers (R. 31, 87); he had written a letter to Noguchi regarding the injection of Col. Elrington and the misunderstanding he had with Terada at the hospital (Terada, 7) (R. 43). About December 1943 he wrote a letter to Noguchi pointing out the condition of the men, the condition under which they were working; he stated the health of the men was at a very low level all around; the heating during the winter was inadequate; he asked him to remedy these matters; the letter was taken by Capt. Pacque, the liaison officer to the Japanese office (R. 32, 33). When he was struck by a sentry cook corporal about six times for smoking (Noguchi, 5y), he wrote a letter of protest to Noguchi which he handed Uchida; he heard nothing of the incident (R. 37). Noguchi with his staff officers inspected Kaijo Camp about once every two or three months (R. 38). The actual camp was about 100 yards square. He saw very little of Noguchi and at the times he saw him, he behaved very well (R. 44). It was obvious Noguchi knew all the things that were going on in camp as the camp was very small and easily supervised (R. 88, 89). He never saw a Japanese slap the face of a PW in front of Noguchi (R. 89). To make complaints or protests, the procedure was to write a letter to Noguchi. It was handed to Capt. Pacque who in turn handed it over to the Japanese officers, usually Terada (R. 89). Col. Elrington visited with Noguchi about seven or eight times in three years (R. 92). Col. Elrington wrote several letters of protest and many other officers and PW's from time to time wrote letters of protest which were handed in through Capt. Pacque (R. 93).

Capt. Goto stated Terada told him he had slapped Col. Cardew and the other officers (Terada, 3) and that he (Terada) had reported the matter to Noguchi, and the latter had punished him for the act (R. 583). He stated Takuma reported the beating of Capt. Fawcett (Takuma, 4) to him and the following day he (Goto) reported the incident to Noguchi, and the latter ordered him to give Takuma a strict warning, which he did (R. 584). He stated he was present when

Restricted

Restricted

Terada reported the beating of Major Beaumont to Noguchi (Noguchi, 5p); Noguchi became very angry and dispatched Terada with a request that the army warehouse chiefs strictly punish the offenders (R. 584). He stated Terada discussed with Noguchi the idea of using an interpreter for inspecting the work sites because of language difficulties, a short time after the McKenzie incident (Takuma, 1); Noguchi granted permission to do so (R. 586).

Col. Noguchi stated he was commanding officer of the Korean area PW camps. The commanding officers of Jinsen and Konan were directly responsible for any wrongs committed directly under them. He would be responsible for wrongs committed by the commanding officers at Jinsen and Konan. He gave orders to lower officers to do their duty. If they did not do their duty, they and he were responsible. At Keijo he was directly responsible to see that proper medical attention was given PW's. He was responsible to see that the commanding officers at Jinsen and Konan provided PW's proper medical attention. He made inspections at Keijo, Jinsen and Konan Camps. He went to see if PW's were treated according to his orders and to see if they had enough food, clothing, etc. On every occasion he found the food sufficient. In his inspection in October 1942 he found there was not enough winter clothing and had it distributed before the cold weather. On other visits he found everything all right. When he visited PW camps he inspected the living quarters of the PW's. He had an interpreter with him and always talked with a group of PW's and asked them how they were. He had a private talk with the PW contact officer. From these talks he received complaints about the food being insufficient, but did not receive any complaints about the actions of any of the Japanese personnel, either officers or enlisted men. At Keijo, Terada was the contact officer. When he received a complaint from the PW contact officer, he reported directly to him. All official complaints and matters were handled in this way. At the Jinsen Camp, Isobe was the contact officer. When Isobe received a complaint from the PW contact officer, he reported it to Okazaki. Okazaki would settle the complaint without making a report to him. He never received a report from Okazaki about the actions of Mizuguchi or about any complaints the PW's had made about Mizuguchi or any Japanese personnel at the Jinsen Camp. The Konan Camp was handled in the same manner as the Jinsen Camp. He did not receive any complaints from the Konan Commanding Officer which he had received from the PW's. He knew of two cases of mistreatment which took place in Korean PW Camps. They were at Keijo. Terada slapped some PW officers (Terada, 3). Terada apologized to Lt. Col. Cardew for this. Morotomi slapped a PW in barracks for smoking in bed, warning the PW before slapping him (Noguchi, 5y). (Ex. 112).

As to Specification 6: For evidence of knowledge charged to Noguchi of offenses alleged in the subspecification herein, see "Notice to Noguchi re Mistreatment PW's at Keijo, Noguchi 5, above. (p 50-52).

As to Specification 6a: See evidence in support of Uchida, 11.

As to Specification 6b: Not Guilty.

As to Specification 6c: Not Guilty.

As to Specification 6d: Not Guilty.

As to Specification 7: For evidence of knowledge charged to Noguchi of offenses alleged in the subspecifications herein, see "Notice to Noguchi and Okazaki re Mistreatment PW's at Jinsen", following Subspecification 7r below. (p 53-55).

As to Specification 7a: See evidence in support of Mizuguchi, 1.

As to Specification 7b: See evidence in support of Mizuguchi, 2.

As to Specifications 7c, 7d, 7e: See evidence in support of Mizuguchi, 3, 4, 5.

As to Specification 7f: See evidence in support of Mizuguchi, 6.

Restricted

Restricted

Mizuguchi, 7, As to Specifications 7g, 7j, 7k: See evidence in support of 10, 11.

As to Specification 7h: See evidence in support of Mizuguchi, 8.

As to Specification 7i: See evidence in support of Mizuguchi, 9.

As to Specification 7-l: See evidence in support of Mizuguchi, 12.

As to Specification 7m: See evidence in support of Mizuguchi, 14.

As to Specification 7n: See evidence in support of Kurokawa, 1.

As to Specification 7o: Not Guilty.

As to Specification 7p: See evidence in support of Okazaki, 1p; contained in Ex. 28 and 65.

As to Specification 7q: See evidence in support of Noguchi, 7r.

As to Specification 7r: See evidence in support of Mizuguchi, 13; Okazaki, 1p. See also Ex. 14, 45, 62, 74, 76, 89.

PW Bulmer, Australian PW, stated he and several other PW's were kicked in the back by two Korean guards in September 1942 while resting on the grass on the parade ground (R. 134). Lt. Takahashi, medical officer, made sick men go to work and refused one or two of them treatment; he slapped and smacked Major Holohan very hard for wanting to save a tin of milk and a can of bully beef (R. 136). Lt. Taurus bashed PW's at work and in camp; he entered barracks five or six times a day and if men were sleeping and were slow in getting up he struck them. He stood between the hut and latrine and if PW's passed without saluting he would bash them (R. 137). He saw several PW's kicked and hit on the parade ground and docks; he saw them get hit on practically every job (R. 189). PW's Cocroft, Lawson, Dez Lel, Fellow and numerous other PW's were hit by guards (R. 139).

Lt. Isobe stated Torisu beat a PW (R. 324).

Notice to Noguchi and Okazaki re Mistreatment PW's at Jinsen, Noguchi 7, above and Okazaki 1 (page 42):

Major Holohan, the senior British PW from 27 September 1942 to 28 January 1945, stated he raised the whole question of Red Cross supplies with the Red Cross representative who visited the camp in 1943. For this he and two other officers were sentenced to solitary confinement from seven to ten days for "misrepresentation of facts". He stated he was of the opinion that Okazaki and Noguchi were aware of some of the incidents in the camp, in fact they could not have failed to know of them, as he reported most of the worst cases as they occurred. He had a great deal of difficulty at all times in representing incidents, chiefly due to the obstruction of the junior Japanese officers. When he was able to obtain an interview, Okazaki listened to his complaints sympathetically and promised to help (Ex. 42). It was his duty to represent all cases of unfair treatment to the Japanese, and he did this fairly and without prejudice to either side. As he had previously been given an assurance that officers would not be treated in the manner of Capt. Reeve (Mizuguchi, 8), he made a request in writing to interview Okazaki. The application was handed to the Japanese duty officer with a request for prompt consideration. A day later he was sent for by Mizuguchi and asked if he still wished to see Okazaki. When he replied that he did, Mizuguchi beat him brutally. Later through Isobe, a friendly Japanese officer, he was able to state his case and received a verbal apology through Isobe from Okazaki and an assurance that it would not happen again. Later Mizuguchi beat him again (Mizuguchi, 7). The foregoing were typical of Japanese treatment of prisoners generally. Prisoners had no redress, and complaints were never entertained (Ex. 42, 43).

(p 53 of 81, Noguchi Case #181)

Restricted

Restricted

Major Round and Major Holohan stated that when Okazaki replaced Okuda in December 1942, Okazaki gave Major Holohan an undertaking that officers at least would not be hit. However later in 1943 and 1944, when the war was no longer going in favor of the Japanese, there were frequent cases of officers being slapped by the Japanese officers and NCO's. When Lee, suffering from paralysis of the legs was made to stand at attention (Mizuguchi, 10), Capt. Gibbs, RAMC, immediately went over to the Japanese lines and explained the condition. The next day Mizuguchi struck Lee and Holohan (Mizuguchi, 10 and 7). A few days before the Red Cross representative was due to arrive on 30 November 1944, Okazaki again gave an assurance that officers would not be hit (Ex. 73). Major Round stated many attempts were made to acquaint Okazaki of PW complaints without success (Ex. 137).

PW Feerick stated that although Major Holohan complained to Okazaki on numerous occasions regarding the brutal treatment of PW's by the camp staff, he never stopped it (Ex. 28). When Major Holohan complained to the camp commandant regarding Mizuguchi's treatment of Lee (Mizuguchi, 10), the next day Mizuguchi beat Major Holohan and told him that if he ever complained to the camp commandant again, he would receive the same punishment (Ex. 29).

Capt. Collinson stated Major Holohan reported the beating of Lee (Mizuguchi, 10) to Okazaki (Ex. 13).

Lt. Col. Montgomery, contact officer, stated he brought Brundrett's condition to the attention of Isobe, general affairs officer, and he was sure Okazaki knew Brundrett was a very sick man several days before he died (R. 551). He believed he knew of the King incident (R. 553). When his contingent of PW's arrived at Jinsen in April 1945, the cadre of British enlisted men there warned everyone about Mizuguchi. They stated he had beaten a number of British and Australian PW's. One of the PW's had transmitted a complaint about this beating and Mizuguchi returned and beat the man severely and warned him that if he ever complained again, he would come back and redouble the beating the following night. He did not report the beatings of Col. Beecher, Col. Englehart and Major Johnson (Mizuguchi, 3, 4, 6) at their request for fear that they would receive additional beatings (R. 551). He at no time took up complaints directly with Okazaki because they had no recourse to him, all matters had to be routed through Isobe. Contact officers had been instructed that all matters would be routed through him (Isobe); and they would not contact Okazaki. He did not report any of the Mizuguchi beatings to Isobe for fear of reprisals; he did report beatings by guards, other than Mizuguchi to Isobe. Neither he nor Col. Beecher believed it was possible for Okazaki not to have known that the senior American officer, Col. Beecher, had been called out at roll call formation and kicked by Mizuguchi. Col. Englehart after his beating was confined to the barracks and latrine for about two months by order of Okazaki (R. 553-554). He stated Okazaki did not concern himself with camp administration and appeared to give free rein to Mizuguchi, the camp doctor. He did not supervise the conduct of Mizuguchi in any respect as far as he could see. When Mizuguchi was officer of the day, he committed various atrocities and yet there was no recourse from his treatment. Had Okazaki devoted several minutes a day to supervise activities at the hospital, he might have saved King's life. It was unbelievable that Okazaki had no knowledge of Mizuguchi's activities. His evasion of authority resulted in brutal punishment being administered to PW's; none of which was justifiable under the circumstances. The authorities at POW Headquarters at Keijo did not supervise Mizuguchi's activities. Noguchi did not inspect and ascertain the true conditions at camp. Uchida did not exercise adequate supervision over Mizuguchi. The actions such as Mizuguchi displayed went unchecked due primarily to the negligence of Okazaki and others who had control and authority and did not elect to use same (Ex. 105).

Major Cornwall stated Col. Montgomery, contact officer, made a complaint to Isobe regarding the beatings of Col. Beecher and Col. Englehart (Mizuguchi, 3, 4) (Ex. 16).

Lt. Col. Kriwanek reported his beating (Okazaki, 1p) to Col. Montgomery, contact officer, who in turn reported it to Isobe, general affairs officer, but to his knowledge, no action was taken (Ex. 49).

Restricted

Restricted

Col. Englehart stated that after his severe beating (Mizuguchi, 4) by way of further punishment, he was confined to his quarters (and the latrine) on orders of the camp commandant from 13 May to 4 July 1945 (Ex. 26).

Lt. Isobe, general affairs officer, stated Major Holohan told him he had been beaten by Mizuguchi and he (Isobe) had reported the matter to Okazaki. The latter assembled all the Japanese officers, NCO's and soldiers in camp and gave them instruction regarding the treatment of PW's. It was to the effect that they would be treated according to international law (Ex. 124; R. 319). He stated at the time Mizuguchi was coercing Col. Beecher to sign the death certificate of Lt. King (Mizuguchi, 14), Okazaki was in the office room, standing next to his (Isobe's) table. Okazaki listened to the excited voices. Kitaoka, the interpreter, was present and told Okazaki the trouble. Mizuguchi took the signed certificate to Okazaki; Okazaki knew what was going on (Ex. 124; R. 334). Okazaki supervised the medical section. All duties in connection with health and all reports had to go through Okazaki to the Keijo Main Camp (R. 318); he supervised the health of PW's, PW supplies, and PW patients. Occasionally he received reports from Mizuguchi. He gave direct instructions to Mizuguchi; Mizuguchi and Okazaki conferred from time to time about treatment of patients and the result of treatments (R. 324, 325). Okazaki gave Mizuguchi a warning in regard to the use of medicines because of the shortage in Japan (R. 326). He stated he had forgotten what Okazaki said when he told him about the beating of Col. Beecher (Mizuguchi, 3) (R. 319). He thought Okazaki knew to a certain extent if a PW had received punishment, as the duty officer submitted a written report (diary) direct to him. Asked if he knew whether any reports contained the "warning" or punishment of Col. Englehart and Col. Beecher, he said he did not desire to answer (R. 321). Certain events were not entered in the diary submitted to Okazaki for fear that inspecting officers from Keijo and Army Headquarters might cause trouble (R. 323). Punishments were not entered in the diary; "disciplinary warnings", not "beatings" was the term used (R. 323, 327). He saw Lt. Torisu beat a PW in the presence of Okazaki. He believed Torisu was called to Okazaki's office, and given a warning; two or three months later Torisu was transferred to Konan. No entry of the beating by Torisu was made in the punishment record (R. 323, 324, 331). Complaints by PW's were made to him; the general affairs officer (R. 320). He received no complaints of beatings, except that of Major Holohan before the end of the war (R. 334).

Pvt. Bulmer stated Noguchi inspected once a month. Once or twice he stopped and spoke to a few PW's. On days he inspected PW's were assured of not being treated too badly (R. 136). When Noguchi came the camp was cleaned up better; food was better and more plentiful (R. 173, 174). When the International Red Cross inspected about December 1942, the camp was very clean; PW's had flour in their stew with lots of vegetables, something which they had never had before; they may have had some boiled fish and a little extra rice on that day; the cookhouse had a large issue that day and after the inspection the stuff was taken back into the compound. It was put out simply for show purposes. He (Bulmer) was told after he left Jinsen that Major Holohan and two others were put in jail for telling Red Cross personnel at a later inspection at Jinsen the conditions of the camp (R. 136, 137).

Okazaki stated it was his duty to inquire if Mizuguchi were mistreating PW's (Ex. 116).

See also last paragraph, "Notice to Noguchi re Mistreatment PW's at Keijo, Noguchi 5", page 52.

As to Specification 8: For evidence of knowledge charged to Noguchi of offenses alleged in the subspecifications herein, see "Notice to Noguchi re Mistreatment PW's at Konan" following Subspecification 8i below. (p 57-58).

As to Specification 8a: See evidence in support of Noguchi, 9.

As to Specification 8b: See evidence in support of Watanabe, 3.

Corp. Doyle, an Australian PW, stated he saw a sick PW leaning against the wall near the kitchen; he was told to stand straight; he tried to

Restricted

Restricted

explain and the Pig and another guard struck him about eight or nine times across the face with their fists; when he protested they took him to the guardhouse and he was butted by two guards with a rifle for five minutes; he was then made to stand at attention half an hour and then told to return to his squad and marched back to camp with the rest of the men (R. 261, 262).

As to Specification 8c: See evidence in support of Shito, 1.

As to Specification 8d: See evidence in support of Shito, 2.

As to Specification 8e: Not Guilty.

As to Specification 8f: See evidence in support of Shito, 4.

As to Specification 8g: See evidence in support of Shito, 5.

As to Specification 8h: Not Guilty.

As to Specification 8-i: See evidence in support of Shito, 6.

PW Broughton, British, stated he was beaten by a guard known as Rickshaw Walla. He made him kneel down and punched his head and face with his clenched fist. This guard had the reputation of doing this kind of thing and kicking PW's on the shins upon the slightest excuse. On one occasion he saw Rickshaw Walla and others beat PW Knowles at the factory. Knowles was obviously ill and unable to stand the work (Ex. 7). PW Dahill stated that in May 1944, because two PW's had escaped from the working party about one hundred men were kept working the following day without food or rest (Ex. 20). Signalman Anderson, British PW, was given a severe beating by Japanese Sgt. Maeda because he had some eggs and sugar, and would not disclose where he got them. He was sent to jail for fourteen days and given only one meal a day (Ex. 27, 12, 56, 102; R. 164, 270). PW Fellow stated PW Meanwell told him he had been accused of theft, was put in solitary confinement and beaten for about three days by the guards and by the Camp Commandant, Otaki (Ex. 30). PW Heatherill stated that Lt. Mills, Australian PW, protested to camp headquarters and received a bashing for doing so (Ex. 41). Pvt. Perry, Australian PW, stated he was made to stand at attention and punched seven or eight times for chewing gum (Ex. 66). PW Harper stated Corp. Mahdoub, an Australian PW, was beaten by the commander of the guard, given two black eyes, and rubbed across the face with some bread he had saved (Ex. 101). Pvt. Hayes, Australian PW, stated he was kicked on many occasions and slapped by guards. Slapping and kicking of PW's by guards was more or less continuous (Ex. 135).

PW Bulmer, Australian PW, stated he was struck down by Taurus (R. 137). Taurus hit PW Meanwell in the eye, accusing him of playing cards for money (R. 137). Taurus struck PW's on numerous occasions. He hit PW's Rider, Fuller, and Taylor (R. 158, 159). PW Perry came in with the skin off his nose and said one of the Korean guards punched him and made his nose bleed (R. 144). He stated he heard that the guard commander walked into the bathroom where thirty PW's were bathing, and because they did not stand at attention, he made them all come out of the bath and smacked each one with his open hand (R. 158). Kobayashi hit three or four PW's; he hit PW Marshall with the open hand three or four times (R. 160). Yugawa always hit PW's if their boots were not "dubbed". He struck many PW's. He struck him three times with his fist and hand (R. 160, 161). Yonas gave PW Rider a belting because he told the foreman he was ill; Rider told him (Bulmer) he had worms. He saw his face scratched under his eye and nose, and a slight swelling of the jawbone (R. 161). Kipper Feet cracked PW's for talking to Koreans (R. 163). Egghead beat PW's everyday; he hit him (Bulmer) two punches (R. 163). Kimura beat PW's for chewing gum (R. 164).

Corp. Doyle, Australian PW, stated he was bashed at the carbide factory, because he did not call out his PW number loud enough. On one occasion he was struck by Sgt. Maeda (R. 249). Mattheyama, a Korean guard, hit him across the face two or three times with closed hand (R. 258); Owen, British PW, stated he had been bashed by the guards (R. 259, 260). Taurus smacked one man across the face and knocked him down off his feet because he would not look at the camera; he struck him viciously eight or nine times with his hands and fists.

Restricted PU

Restricted

He belted a couple of men across the back of the head with the sheath of his sword or across the face with his clenched fist or hand whenever he was orderly officer. He struck late comers on parade and roll call. One night he punched one of the men in the stomach (R. 262, 265). He actually saw Taurus bash about eight or ten PW's; he must have struck at least 100 men in camp (R. 269, 270). Corp. Litchfield told him one of the guards kicked him in the shins because he was slightly deaf and didn't hear an order. A guard, the Kicker, would kick PW's in the shins while searching them (R. 277). See also Exhibits 30, 32, 83, 98.

Notice to Noguchi re Mistreatment PW's at Konan, Noguchi 8, above:

Capt. Kinloch stated he was the senior British PW in Konan from September 1943 to September 1945. After Fathers' beating (Shito, 1) he took Fathers to see Otaki, the camp commandant. The orderly officer listened to his protests about Shito beating Fathers. After some argument the orderly officer informed him that he would report the matter to Otaki. He was informed Otaki would investigate the case. The following day Otaki sent for him and informed him that he was prepared to admit the punishment had been excessive and that there would be no repetition of such cases. He (Kinloch) was constantly having to report Shito for minor acts of cruelty (Ex. 46). Capt. Kinloch's complaint to the Japanese concerning Fathers' beating (Shito, 1) was also mentioned by PW Bulmer (R. 150), Corp. Doyle (R. 275), PW Chute (Ex. 12), PW Sagar (Ex. 106).

PW Milgrew stated that Otaki, camp commandant, went to the hospital the following morning as soon as he learned Fathers was a patient there following his beating (Shito, 1), and ordered Fathers be placed in his own quarters over the protest of Capt. Morris, British M.C., for the reason that Noguchi was expected at camp during the next day or so to inspect, and Otaki did not wish to have evidence of ill treatment of PW's brought to the notice of Noguchi (Ex. 61).

PW Ody stated there were always complaints going in about Shito striking men. They were always made through the PW officers (Ex. 64).

PW Barlow stated one of the PW officers reported the beating of Broughton (Shito, 8) to the Japanese officers, but no action was taken (Ex. 2).

PW Fellow stated Capt. Kinloch made frequent protests to Otaki about conditions generally; nothing was done (Ex. 30).

PW Heatherill stated Otaki, the camp commandant, was fully aware of the treatment received by PW's and was responsible for the conditions. In spite of repeated protests by PW officers to Otaki, conditions did not improve. Lt. Mills, Australian PW, protested to Camp Headquarters and received a bashing (Ex. 41).

PW Bulmer stated many complaints were made by Capt. Kinloch to the Japanese on an average of once every two weeks. Capt. Kinloch said they became such a common occurrence that Otaki didn't like hearing them. He complained many times about the food and labor conditions. He seldom got a reply back from the Japanese (R. 182, 183).

Corp. Doyle stated Capt. Kinloch reported the beating of PW's Flack, Doyle and Bertram (Shito, 6) to Kobayashi, orderly officer. Kitaoka, the interpreter, listened to the complaint and more or less laughed it off. He said he would talk to Shito, but every time Shito went on guard, it made no difference; talking to him didn't do any good. Noguchi occasionally came up and put on a form inspection which was a big farce. Every time he came, PW's used to get fairly thick soup. Whereas normally conditions at the furnaces were very bad and men became scorched at a considerable distance because of the terrific heat, when Noguchi came to inspect the temperature of the furnaces was lowered, and a person could walk right up to the furnace door without injury (R. 250). All Noguchi's inspections were dressed up (R. 295). PW's never got close enough to Noguchi to speak to him to make complaints. Uchida visited camp once or twice, but there was no noticeable change. After Noguchi's or Uchida's visit, there were no additional drugs or medicine in the dispensary (R. 307).

Restricted

Restricted

PW Thompson stated he knew several complaints were made to the camp commander about conditions at the factory, but no action was taken to improve them (Ex. 80).

PW Meanwell, British, told PW Fellow that he was accused of theft, was put in solitary confinement and beaten for about three days by guards and Otaki (Ex. 30).

See statement, Capt. Morris, British Medical Officer, Watanabe 3 (Ex. 95).

See also last paragraph, "Notice to Noguchi re Mistreatment PW's at Keijo, Noguchi 5", page 52.

As to Specification 9: See evidence in support of Watanabe, 1.

For evidence of knowledge charged to Noguchi of offenses alleged in this specification, see "Notice to Noguchi re Mistreatment PW's at Konan", Noguchi 8, above. (p 57-58).

ARIIZUMI

As to Specification 1: Pvt. Lomasney, a British PW, stated that he had been tried by a Japanese court-martial and convicted on 26 March 1943 because he brought into camp an empty corned beef can as evidence that the Japanese had been eating PW Red Cross supplies. He was confined in a prison at the outskirts of Keijo. The next day Ariizumi came with another officer and two armed sentries. They put him in a car and took him to Military Headquarters. He was taken to an examination room and seated in a chair before a small table. Ariizumi sat at another table writing. Behind Lomasney's chair stood a military policeman whose duty it was to hit him when ordered by Ariizumi. Ariizumi questioned Lomasney for some time. During the questioning he was hit quite a lot and knocked out of his chair. As he was getting up, the military policeman picked up the chair and hit him with it over his head. He refused to sign a confession implicating others in the camp. He used some insulting language. Ariizumi talked to him about an appeal. He told him to save his breath and was struck more blows. The questioning continued until the early hours of the morning when Ariizumi left (Ex. 53). He stated further the beatings were not by Ariizumi himself, but by two Japanese guards who were assigned to assist him. They beat him with their hands and kicked him and at one time crowned him on the head with a chair. They tried to force him to sign a statement which he refused to do (Ex. 54).

As to Specification 2: Capt. Collinson, a British PW, confined in Seidaimon Prison from August 1943 to 17 August 1945 (Ex. 14), stated in a report that Pigott was arrested 30 July 1943 for alleged circulation of anti-Japanese propaganda and taken to Ryusen MP Headquarters. Pigott was put in a cell and questioned by a sergeant frequently on succeeding days. Third degree methods were used to secure a statement implicating others in camp. Face slapping, blows with a chair, bamboo pole, wooden sword, kicks and full arm blows to head and body occurred at each interview. He was allowed no sleep for two nights. The cross-examination by the sergeant was repeated in careful detail by Ariizumi. Ariizumi asked Pigott which he disliked most, the beatings or lack of sleep. During Ariizumi's questions the guard standing behind Pigott frequently kicked him, flicked cigarettes out of his mouth, and once knocked a cup of tea out of his hand. Pigott was convicted by court-martial and confined at Seidaimon Prison (Ex. 15). Lt. Mullins, a British PW, stated he and Lt. Pigott were both confined in the Seidaimon Prison near Keijo from about August 1943 to 17 August 1945. He stated that Pigott frequently told him while in prison of the severe beatings he had received during the initial interrogation before Ariizumi. He said he had not been allowed to sleep during that time and Ariizumi had asked him which was worse, the beatings or lack of sleep (Ex. 62).

As to Specification 3: Not Guilty.

GOTO

As to all Specifications: Not Guilty.

Restricted

Restricted

c. For the Defense:

Lt. Isobe, officer in charge of general affairs at Jinsen PW Camp, stated Uchida was the Keijo medical officer and the highest ranking medical officer of Korean PW Camps (R. 358, 359). Uchida was not the senior medical staff officer of the Korean PW Headquarters. Staff officers belonged to Korean Army Headquarters (R. 362) and were members of a large unit; a unit as small as the Korean PW Camp did not have staff officers (R. 364). Uchida supervised the health of those PW's only within the Keijo PW Camp. Seidaimon Prison had its own doctor. PW Lt. Butler at Seidaimon told him (Isobe) that Lt. Ariizumi was a very fine man (R. 362). Uchida visited Jinsen once or twice a month during the three years he (Isobe) was there. At inspections Uchida was accompanied by Noguchi; he inspected health conditions and patients in PW camps (R. 363). Where Noguchi visited Jinsen and saw that improvements were necessary, he referred these to Uchida who saw that the improvements were made. At one time when there were more beriberi cases at Jinsen than Keijo, Noguchi visited the ward and ordered Uchida to have some of them transferred to Keijo (R. 364).

Iwamatsu Kitaoka stated he was interpreter at Jinsen for about one year and nine months. He heard Okazaki address the officers and men of the camp in respect to treatment of PW's; he was especially strict about the prohibition of private punishment; he was present and heard him instruct his subordinates at every opportunity to withhold private punishment. To his knowledge no PW was ever slapped or beaten in the presence of Okazaki (R. 368). He was at the Konan Camp for about a year (R. 370). Watanabe visited the camp about three times a week; he (Kitaoka) was always present at sick call as interpreter and corpsman (R. 368, 369). Capt. Morris decided which PW's were to be sent to work or remain in camp; he did not think there were any instances where Dr. Watanabe and Capt. Morris disagreed on medical treatment of PW's. The camp hospital was at no time placed off limits to Capt. Morris by Watanabe. There were about thirty PW patients each day from the Konan carbide factory (R. 369). The factory was supposed to furnish all medicine for PW's, but because of a shortage, they were never able to procure as much as requested. Watanabe was also doctor at the Konan factory hospital. The medical orderly reported serious illness to the camp commandant, who gave consent to remove the patients from camp to the Konan Hospital. Watanabe made arrangements for their admission to the Konan Hospital. Watanabe never refused a PW admission to the Konan Hospital. At no time were PW's suffering from diarrhea or dysentery refused admission to the camp hospital medical room. Watanabe had no authority to decide whether a PW could be visited at Konan Hospital. The camp commandant, Capt. Otaki, decided that (R. 370). Sometimes Watanabe and Capt. Morris overruled each other's decisions as to whether PW's were fit to go to work (R. 371). The camp commandant gave the medical orderlies orders in the dispensary at camp (R. 372). On one occasion when there were a great many patients, Otaki gave orders to send them out on light work (R. 373). Watanabe gave instructions to the medical orderlies concerning treatment of patients when he was present at sick call. He heard of the nickname "Yoroshii" which the PW's applied to Watanabe, but not "Yoshi". He heard Noguchi and Okazaki issue orders that PW's would not be struck, but never heard them say the offender would receive a penalty for disobeying the order (R. 374, 375).

Junjiro Ihara stated he was a major and later lieutenant general, chief of staff of the Korean Army from 1942 to 1945 (R. 573). When a PW was sentenced to Seidaimon Prison, the entire responsibility for the PW passed from Noguchi and his subordinates to the warden of the prison. Uchida was responsible for examination and treatment of PW's at the Main Keijo Camp; he had no command responsibility at the Konan and Jinsen Camps, except that Noguchi could direct him to inspect those camps. Noguchi and Uchida did not have the responsibility for medical treatment of PW's transferred from the Keijo PW Camp to the military hospital at Keijo (R. 574). Uchida went to inspect medical conditions at Jinsen and Konan by order of Noguchi and reported his opinions to Noguchi. He also inspected Seidaimon Prison on Noguchi's orders (R. 576). Noguchi could not give Uchida responsibilities which would entail or give him more authority (R. 577). Noguchi had authority to send Uchida to Seidaimon if he wanted to find out medical conditions there. Noguchi submitted a monthly report of conditions in PW camps to commanding general, Korean Army, and once or twice a week he himself visited the commanding general in order to report

details of PW camps. Noguchi sent representatives to Seidaimon, not because it was his responsibility, but because it was the ethical and the humane thing to do (R. 579).

Noboru Shindo testified he was a lieutenant general, Medical Section Chief of the Korean Army. Uchida had no duties and responsibility in connection with PW's confined at Seidaimon Prison. PW patients at Seidaimon were examined by the prison doctor. In June 1943 there was an ample supply of medicine in the Korean PW Camps; from about the middle of 1944 it became difficult to obtain medicines; stocks became scarce; in 1945 conditions became much worse (R. 594). The medical supplies in the Japanese Army were cut down in 1944, but among the units and forces, the Korean Army had the most medical supplies and were able to give out medical supplies until March 1945 (R. 611). Uchida had no duties or responsibility over PW's who were interned in the Keijo Military Hospital for treatment (R. 596). He had no duties or responsibilities over PW's at the Konan or Jinsen Camps unless he was given special orders by the main camp commandant. He was responsible for medical treatment and supervision of the health of PW's at the Keijo Main Camp. Uchida went on inspection trips to Konan and Jinsen Camps by order of the main camp commandant to observe general health, food and labor conditions of PW's (R. 597, 598).

Shigeo Haida stated he was a medical captain assigned to the Keijo Military Hospital from 1942 to 1945; he was in charge of examination and treatment of surgical patients. Uchida had no responsibility for the PW's while they were interned in the hospital (R. 623).

Hayato Miyazaki testified he was warden of the Seidaimon Prison from March 1935 to February 1944. The doctors at the prison were responsible for the health and treatment of PWs in the prison. Medical reports of PWs drafted at the medical section went through the general affairs section of the prison to the judge advocate, Korean Army (R. 653).

Harutora Kuranari stated he was the chief doctor at Seidaimon Prison from June 1940 to August 1945 (R. 629, 645). The doctors at Seidaimon were responsible for the examination and treatment of PW's confined there. Uchida had no responsibility for the examination and treatment of PW's confined there; however if a particular prisoner took a turn for the worse, the fact was reported to the military authorities, and in that event he thought Uchida had the responsibility of treatment (R. 629, 649). Uchida on one or two occasions examined the patients in the ward (R. 630). In comparison with the Army or college hospitals, the prison hospital was very poor; the psychological effect upon a person confined in prison was such as to tend to lower his health (R. 634). Lt. Pigott was removed from Seidaimon by military authorities when notified by him of his condition; he had the first stages of tuberculosis and so reported (R. 640, 641). About four months later he was confined in the prison again; he wasn't in perfect health, but his condition was a great improvement over his condition when he was removed (R. 642). He had almost completely recovered from the chest affliction (R. 650). Later his condition again became serious (R. 642).

Isamu Goto, an accused, testified he was general affairs officer at Keijo Camp. Noguchi inspected Konan about once every month and a half and Jinsen about twice a month (R. 587).

Rinsaburo Shito, an accused, testified he hit Fathers (Shito, 1) and Fathers hit him back. He became excited and dragged Fathers to the guardhouse and hit him on both sides of the face approximately ten times (R. 655). He stated he was thirty years old; Fathers' about fifty. He stood on the bed about a foot high at the guardhouse to beat him; two guards grasped Fathers and held his hands for just a moment. When Fathers became quiet, they released him. He struck about four or five blows while the guards held him, and about four or five after the guards released him. His nose bled from the beating; he struck with the open palm and closed fists of both hands. Fathers was wearing eye glasses. He did not use a rifle butt or kick him (R. 658-662). Capt. Otaki restricted him for one month for beating Fathers (R. 668). He stated he knew nothing about the matters referred to in Shito 2, 4, 5, 7, 8. At Konan he beat four or five PW's (Shito, 6); at Keijo he beat about three

Restricted

or four PW's (Shito, 9). He did not strike any PW with a club. He did not force a PW to stand at attention in the snow without proper clothes on. (R. 656, 662-669).

Shimada Terada, wife of the accused Terada, testified she lived in a house at the PW camp at Keijo from 1942 to 1945. The incinerator near her house was used by two Korean homes, the PW war camp office, the NCO mess hall, and herself. There were eight people in her family. She never ate or kept Red Cross packages or food in her house (R. 680). She never saw her husband bring Red Cross food supplies into her home. She did see Red Cross food containers in the incinerator but they were not from her house (R. 683).

Nobushige Ukai stated he was interpreter for Ariizumi during the Lomasney incident; he never saw Ariizumi strike Lomasney; he never saw anyone in the presence of Ariizumi strike Lomasney; he acted as interpreter during the entire questioning of Lomasney (R. 685-686). Ariizumi conducted the first examination of Lomasney about February 1943 at the judge advocate section of the Korean Army Main Headquarters (R. 690). He was present one time after Lomasney had been tried by courts-martial when Ariizumi interviewed him in the prison in Lomasney's cell and at military headquarters at Ryusan. He did not know whether there were any other interviews between Ariizumi and Lomasney at military headquarters after the courts-martial. Military headquarters at Ryusan was about five minutes by auto from the Keijo PW Camp (R. 692). He did not know whether any other interpreter was used during the investigation of Lomasney (R. 693).

Takemata Kiyoshi stated he was assigned to the Ryusan Kempei Tai from 1939 to March 1945 (R. 625). Lt. Pigott was confined in the Kempei Tai Compound for three or four days. He conducted the investigation of Pigott. Ariizumi was not there. The investigation took about fifteen hours. No third degree methods were used (R. 625, 626). He did not strike or beat Lt. Pigott at any time during the investigation, nor did anyone else (R. 627).

Capt. William L. Long, M.C., U. S. Army, stated he was stationed at 155th Station Hospital, APO 503, Yokohama (R. 695). He expressed his opinion in answer to various hypothetical questions. Concerning Lt. King (Mizuguchi, 1), he stated if plasma had been administered, he did not think it would have served or prolonged his life. Plasma would have treated the result, malnutrition, rather than the cause, amoebiasis and avitaminosis; absence of vitamins in the diet. Plasma would have had very little effect whether given or not. It would have been improper treatment to refuse amoebicides. It would not have been proper treatment to order him to work or to punch him in the belly (R. 702, 710). Concerning Capt. Brundrett (Mizuguchi, 2), he stated he would need amoebicides; he would need a nourishing diet with meat, milk in it, and large doses of vitamins, particularly the B group. Proper treatment for dysentery could not have been rendered without amoebicides. Plasma alone could not have been considered a cure. Brundrett was certainly a hospital case. There was some food value in plasma; some small benefit might have accrued from its use. It was proper treatment to withdraw the fluids causing respiratory embarrassment (R. 702, 708). Concerning Lt. Pigott (Uchida, 11), he stated it would be improper not to recommend further hospitalization and treatment at the time Pigott was transferred to Seidaimon (R. 707). He stated he was reasonably certain that Pigott's tuberculosis began in 1944 when he developed pleurisy. A very sound clinical diagnosis of tuberculosis of the plasma could have been made in December 1944, and on such a clinical diagnosis he (witness) has hospitalized patients for nine months (R. 713).

4. Opinion:

a. Objection to Omnibus Specifications.

The defense made a motion to strike the omnibus specifications against the accused (R. 7). The motion was denied, but the Commission directed the prosecution to serve upon the defense bills of particulars pertaining to the omnibus specifications (R. 8). The Commission then modified the order and directed the prosecution to serve upon the defense, in lieu of the bills of

Restricted

Restricted

particulars, schedules showing the paragraph and page of the affidavits that pertained to the omnibus specifications (R. 13). This order of the Commission furnished the accused substantially the same information that would be contained in bills of particulars. The motion to strike the omnibus specifications was properly denied.

b. Motion for Severance.

The defense made a motion for a severance. Argument, not recorded, was made by opposing counsel (R. 7). Later in the record the defense stated the reason for requesting the severance was that the defenses of the accused were mutually antagonistic (R. 591). The motion was denied by the Commission (R. 7). Granting or denying a severance is a matter within the sound discretion of the Commission. There does not appear to have been any abuse of its discretion on the part of the Commission. Here the Commission felt that the interests of each of the accused could be properly safeguarded, and a fair and impartial trial assured all, without a severance. Individual counsel were provided for the accused in addition to advisory counsel (R. 3). The rights of the accused were not prejudiced by denying the severance.

c. Objections to the Admissibility of Evidence.

The various objections made by the defense to the admissibility of ex parte affidavits, hearsay evidence, "evidence, other than the best", medical conclusions by lay witnesses, and conclusions and opinions on other matters by non experts have all been passed upon by the Reviewing Authority heretofore and will not be discussed herein (U.S. vs. Ogimoto, Case 70); (U.S. vs. Murakami, Case 153), (U.S. vs. Oota, Case 129), etc. The rulings of the law member on these objections were not in error.

d. Motion for Mistrial because of Changes in Membership of Commission.

During the course of the trial three of the original five members of the Commission were replaced by new members, and one of the replacements was replaced by a new member in accordance with orders of the Convening Authority (Par. 2, SO 146, R. 196; Par. 42, SO 149, R. 198; Par. 1, SO 160, R. 266; Par. 24, SO 163, R. 315; all Headquarters Eighth Army). The defense made a motion for a mistrial on the grounds that only two of the original members of the Commission remained in the case. It contended that the rights of the accused had been jeopardized; that the changing of the Commissioners beyond the minimum number of three precluded a fair trial for any of the accused, since the new members had not heard the witnesses brought before the Commission, and not having been able to observe their conduct, nor having been able to question the witnesses making testimony before the Commission, they would not be able to render a finding of fact on these proceedings and on such evidence as was presently before the Commission (R. 314). The Commission denied the motion (R. 315). Under the provisions of paragraph 3a, SCAP letter, dated 5 December 1945, "Regulations Governing the Trial of Accused War Criminals", the Convening Authority may fill vacancies among the members occurring after the trial has begun. The Convening Authority acted under this provision. The requirements of SCAP rules that the substance of all proceedings had and evidence taken in the case shall be made known to the members before the trial proceeded was complied with (R. 233, 268, 317). Although the defense counsel stated it did not desire to challenge any of the newly appointed members for cause (R. 196, 198, 266, 315), the reasons pro-pounded in his motion for a mistrial indicate clearly that it was his contention that the substantial rights of the accused had been prejudiced by the appointment of the new members. One of the grounds for challenge for cause enumerated in the Manual for Courts-Martial reads:

"... that not having been present as a member when testimony on the merits was heard ... his the challenged member/ sitting as a member will involve an appreciable risk of injury to the substantial rights of the accused, which risk will not be avoided by reading the record" (Par. 58e MCM 1928).

Restricted

Restricted

Although war crimes trials are not conducted under the rules of courts-martial, this ground for challenge is not peculiar to military practice, but is common to both civil and military courts. Although the defense could have asserted a challenge against each of the new members on this ground, it elected instead to make the motion for a mistrial based on the same ground. The Commission acting in its discretion could have properly denied the challenges had they been made, and properly denied the motion for the mistrial, feeling satisfied that the rights of the accused would not be injured because the new members had not heard or seen the witnesses who had already testified.

The five members of the Commission who voted on the findings and sentences were: Lt. Col. Place, Majors Lawler, Dixon, Beardsley, and Ringwalt. The first two were present during the entire proceedings. A careful examination of the oral testimony not heard by the last three (newly) appointed members, discloses that even without that testimony, there is sufficient other evidence to establish the guilt of the accused of all specifications of which they were found guilty as recommended for approval herein (par. 5). Such being the case, the substantial rights of the accused were not injured by the denial of the motion for a mistrial.

e. Motion for Mistrial because of Introduction of Opinion of Colonel Shaw.

The prosecution offered in evidence the pre-trial statement of Noguchi (Ex. 112). The defense objected to its introduction on the ground that the twelve accused were not charged with entering into a common design for the perpetration of crime. It contended that the statement made by Noguchi could be introduced only as against him, but not against other accused. The prosecution insisted that under SCAP rules the document was admissible (R. 207-209). The law member ruled that it was admissible and stated that the Commission would evaluate it for what probative value it contained (R. 213). The law member later qualified the ruling by stating that the whole exhibit was admissible but the Commission would evaluate the probative value it might have insofar as it applied alone to the accused who made the statement, but would not be considered as evidence against any other of the accused mentioned therein. It stated the same ruling would apply to similar statements (R. 221). Exhibits 112 to 122 were admitted on that basis (R. 231).

The prosecution requested the Commission to reconsider its ruling as to the admissibility of Exhibits 112 to 122 (R. 555), citing the opinion of Colonel Shaw, Judge Advocate, GHQ, FEC, which is reproduced in full below:

GENERAL HEADQUARTERS, FAR EAST COMMAND

Check Sheet

File No: JA 016 (12 Aug 47)
Subject: On Admissibility of Confessions Uttered by Other Accused.
From: Judge Advocate To: Legal Section Date: 12 August 1947

1. By Check Sheet dated 8 August 1947, you request the opinion of this office as follows:

"1. In numerous atrocity cases that will be tried before Eighth Army Tribunals, it will be possible to hold common trial of several perpetrators, thus saving much time and expense. However, in most of these cases, it will be necessary to use written statements and confessions which contained inculpatory matter against other accused.

"2. It has been the opinion of this Section that confessions by one accused containing inculpatory matter against other accused is admissible and competent evidence against the latter. Some of the law

(p 63 of 81, Noguchi Case #181)

Restricted

Restricted

members of the Commission have been ruling that a confession is admissible only against the confessor and any matter inculcating other accused will be disregarded. If that is to be the rule, it will be necessary for this Section to try many accused individually in order to prevent serious miscarriage of justice.

"3. Request a tentative ruling concerning this matter."

2. It is the opinion of this office that the confessions described above are admissible in evidence against accused other than the one making the statement. The trials in these cases are controlled by the letter, dated 5 December 1945, of the Supreme Commander for the Allied Powers, "Regulations Governing the Trials of Accused War Criminals." While these regulations modify the technical common-law rules applied in American courts, they are fundamentally sound. The ultimate object sought under each procedure is the same, namely, to determine the truth of the charges as disclosed by the probative value of relevant evidence. The regulations provide for the "expeditious hearing of the issues raised by the charges, excluding irrelevant issues of evidence and preventing unnecessary delay or interference," for the admission of "such evidence as * * * would be of assistance in proving or disproving the charge, or such as * * * would have probative value in the mind of a reasonable man." These, in the discretion of the commission, are exercised "with the greatest liberality to achieve expeditious procedure." Paragraph 5d, among other matters, provides for the admission in evidence of various statements for such purpose. The confession involved in this problem has been tested for admissibility against the party uttering it. In the opinion of this office, it is admissible against other accused, not as a confession by them, but merely as a statement to be tested by all of the circumstances for the likelihood of the truth of the matter contained. The receipt of such statement does not prove the guilt of those who do not join in it. It is testimony constituting a part of the record, of which the probative value of the whole must determine the truth of the charges.

A CERTIFIED TRUE COPY

/s/ Franklin P. Shaw

FRANKLIN P. SHAW

/s/ Claude A. Muzzy

Colonel, J.A.G.D.

CLAUDE A. MUZZY, CWO, USA

Judge Advocate

The prosecution contended that based on this opinion, a confession or admission by one accused at a common trial is admissible as to all parties. The defense contended that the opinion of Colonel Shaw was contrary to law, and stated it was improper to offer it in open court. The Commission received the opinion of Colonel Shaw for its consideration (R. 555-556). At the request of the defense, the document was officially made part of the record (R. 560). The prosecution then made a motion for a reversal of the ruling and requested that Exhibits 112 to 122 be admitted in evidence as to all the accused, and not merely as to the accused making the statement (R. 572). The Commission denied the motion and reaffirmed its ruling (R. 572).

One of the accused, Goto, elected to take the stand and testified (R. 581-590). The Commission ruled that evidence with respect to one accused on the stand would not be considered as against another accused (R. 587-589). The prosecution insisted that in view of Colonel Shaw's opinion, the testimony of one accused on the witness stand may be admitted as against the other accused. The Commission reaffirmed its ruling that where an accused in a common trial takes the stand as a witness in his own defense, the evidence as to the other accused will be disregarded (R. 665, 666). After a second accused, Shito, had testified (R. 564-570), the Commission adjourned, and on reconvening, the President announced that the Commission had further considered the opinion of the Judge Advocate, and withdrew its previous ruling as to admissibility

(p 64 of 81, Noguchi Case #181)

Restricted

Restricted

of confessions and oral testimony of one accused against another in a common trial (R. 671).

The defense thereupon made a motion for a mistrial on the ground that the introduction of the opinion of Colonel Shaw, a reviewing authority and legal adviser to General MacArthur, influenced the Commission in a reversal of its ruling, and surrendered the individual judgment of the members of the Commission for the expressed opinion of the reviewing authority in violation of the oath taken by them. It stated the reversed ruling permitting one accused to testify against a co-accused precluded the latter accused the right of cross-examination as the defense counsel could not cross-examine one of the accused it was defending. It thereby deprived the accused of a fair trial as provided under SCAP rules (R. 675, 719). The defense cited some cases of the Board of Review of Judge Advocate General wherein it was held that extraneous influence had fatally affected the trial, and an opinion of the Attorney General where it was held improper for a trial judge advocate to seek an advance opinion of the Secretary of War on the admissibility of testimony in a contemplated trial unless the question proposed had occurred in the administrative course of business in the War Department (R. 675-679). However, none of the citations bear on the question in issue in the instant case.

The question here is whether the rights of the accused for a fair trial were prejudiced by the prosecution's action in offering and the Commission's in receiving the opinion of Colonel Shaw, a reviewing authority, on the interpretation of a SCAP rule pertaining to the admissibility of evidence. The opinion of Colonel Shaw was not sought by the Commission; it was duly offered by the prosecution in the proceedings had in open court. The opinion was in no sense one peculiar to the pending case alone, but referred generally to all common trials of war criminals under SCAP rules where admissions and confessions of accused are involved. The law member whose duty it is to make rulings on the admissibility of evidence should give opposing counsel an opportunity to cite authorities on the interpretation of matters of law pertaining thereto to aid him in his deliberations and enable him to arrive at a proper ruling, or he may call for authorities on his own initiative. He will be inclined to rely heavily on those authorities whom he considers best qualified to interpret the law, in the instant case the foremost legal authority on the interpretation of SCAP rules. If the law member is convinced he has made an error in his ruling, he should correct it. That is his bounden duty. Failure to do so would be an unconscionable act on his part. For one to receive the opinion of an expert well versed in the law on a matter of law, and to adopt that opinion as his own, can in nowise be construed as a surrender of one's individual judgment for that of another.

Under the original ruling by the law member, the accused may have been afforded certain protection, but it was a protection to which they had no right under the law. Statements and confessions of the accused are admissible under paragraph 5d, letter dated 5 December 1945, SCAP, "Regulations Governing the Trials of Accused War Criminals." To insist that these may be admitted only as against the accused making them would be reading something into the law which was not contained therein. Exhibits 112 to 122 are admissible as against all of the accused mentioned therein. The accused, devoid of any right to have the statements considered only as against the person making them, could not be prejudiced in a right which they did not have. Removing from them a protection to which they had no right, as was done in the subsequent ruling of the law member, did not prejudice any rights of the accused. The Board of Review, Office of the Judge Advocate, GHQ, Far East Command, in its opinion, dated 28 November 1947, in United States vs. Nakamura et al (MCO 27 GHQ, FEC, 8 December 1947), a case tried in Manila before a Military Commission appointed by SCAP held:

"As to rulings of the Commission: In admitting into evidence accuseds' affidavits (Pros. Ex. 31, 33-39, incl), the Commission, over the objection of the defense counsel ruled that 'statements in them made by one accused incriminating other accused may be considered for their probative value as evidence against the other accused' (R. 511). This ruling was proper under the general rule

(p 65 of 81, Noguchi Case #181)

Restricted

Restricted

laid down in paragraph 5d (1) of the regulations cited above."

The Staff Judge Advocate, Colonel Shaw, although not specifically approving the above opinion, impliedly did so by not taking exception thereto.

Although the opinion of Colonel Shaw applies specifically to extrajudicial confessions and statements of the accused, there appears to be no sound reason why it should not be applied to the testimony of the accused on the stand also. The reasons for the rule concerning the former apply equally to the latter. Although there is no specific provision contained in SCAP rules, which provides that testimony of one accused may be admitted against the others, by inference that is the intention of the rules. The accused at a common trial is not entitled to any greater protection than if he were tried separately. If each of the accused were tried separately, the prosecution could call any of the accused to testify against the accused on trial, and their testimony would be admissible. An accused at a common trial therefore may not object to a co-accused testifying against him, if the co-accused elects to take the stand. Provision for the admission of such testimony is contained in par. 3a, "Rules of Procedure and Outline of Procedure for Trial of Accused War Criminals", Headquarters Eighth Army, 5 February 1946, which states that if an accused elects to take the stand, the cross-examination is nowise to be limited to matters brought out on direct examination.

The defense, in electing that Goto and Shito testify, was not misled by the Commission's ruling. Under the ruling then in effect, their testimony could be used only as against themselves. It does not appear the reversal in the ruling pertained to the oral testimony of these witnesses already in the record (and it has been so held in this review), but only to the prosecution's documentary evidence already received. As to the introduction of the latter, the defense could not make an election and could not therefore have been misled in its introduction by the reversal of the ruling.

The objection made by the defense that the accused is precluded of the right of cross-examination as the defense could not cross-examine one of its own accused is without merit. Each accused is represented by individual counsel (R. 3) who may cross-examine any accused he is not defending. Such cross-examination need not be conducted by the advisory counsel.

The ruling of the Commission that extrajudicial confessions and statements and the oral testimony of one accused may be used against another accused in a common trial (R. 671) and the denial of the defense motion for a mistrial because of the introduction of the opinion of Colonel Shaw (R. 680) were proper.

f. Improper Amendment of Specifications.

After the prosecution had twice rested its case (R. 438, 453), it requested permission to amend Specifications; Watanabe 1, 2, 3; Uchida, 7; Noguchi, 8a. The president of the Commission stated that under SCAP rules, he thought the prosecution was entitled to amend the specifications at any time during the progress of the trial. The Commission accepted the amendments as to Watanabe and Uchida, and permitted the prosecution to delete Specification 8a against Noguchi and substitute a new Specification 9 in its place (R. 558, 559). The defense thereupon made a motion for a mistrial as to the three accused, stating they had been deprived of their rights under paragraph 5(b) (1), SCAP rules, dated 5 December 1945, which provides that each accused shall have in advance of trial a copy of the charges and specifications clearly worded, so as to apprise the accused of each offense charged (R. 559). The amendments do not pertain to matters of form, but to matters of substance which materially magnify the charges or change the nature of the offenses charged. Granting the accused additional time to prepare for the amended specifications could not

Restricted

Restricted

restore to them the rights they are guaranteed under paragraph 5(b) (1), SCAP rules, and of which they had been deprived. The prosecution had in its possession prior to trial the evidence upon which it intended to rely. There appears to be no reason why it could not have had the charges amended prior to trial. Had the charges been amended prior to trial and the accused been given reasonable time to prepare their defense against them, the rights of the accused would not have been prejudiced thereby. But to wait until after all the evidence had been received by the Commission, and then to substantially amend the charges to conform to the evidence, is clearly not in accord with the standard of justice which we hope to instill in a conquered people.

After the amendments and substitution were accepted by the Commission, the prosecution stated that the three accused should plead to the amended specifications (R. 562). The Commission granted the defense opportunity to challenge (R. 563). The defense challenged each member of the Commission for cause on the ground that having heard the evidence on the original specifications and having voted upon the findings in a motion for a finding of not guilty, each member had formed an opinion as to the guilt of the accused of the amended specifications. None of the challenges were sustained (R. 564, 567, 568, 570). The Commission was not resworn to try the amended specifications. The accused pleaded not guilty to the amended specifications (R. 570, 571). No new evidence was offered by the prosecution in support of the amended specifications, the prosecution stating that it was relying on the evidence already in the record (R. 571). The defense made a motion for a finding of not guilty of the amended specifications and same was denied by the Commission (R. 571, 572). At the direction of the Commission the prosecution then made a motion that all the evidence introduced in the case against Watanabe with respect to the original specifications be considered by the Commission to apply to the amended specifications. The defense objected to the motion and was overruled by the Commission (R. 721).

The action of the prosecution and the Commission outlined in the foregoing paragraph clearly establish that they were of the opinion that the amended and substituted specifications were in the nature of new or additional specifications with which the accused had not been confronted at the original arraignment. The prosecution had no authority to substitute a new specification even with the concurrence of the Commission or to amend specifications which in effect made them new specifications without the approval or authority of the Convening Authority (Winthrop 155, 156, 187). "In the absence of statute, an indictment cannot be amended by the court or prosecuting officer in any matter of substance without the consent of the grand jury [convening authority] which presented it" (42 CJS 1239). An amendment changing the nature, identity, or degree of the offense charged, or under most authorities adding another offense, are matters of substance and not matters of form (42 CJS 1249). The amendments and substitutions, except insofar as they pertain to matters of form are illegal and without effect. Only so much of the findings of guilty of the amended specifications and the substituted specification, as is contained in original specifications, is valid. Such a holding restores to the accused the rights to which they are entitled under SCAP rules and cures the prejudicial errors committed by the Commission in accepting the illegal amendments and substitution. The rights of the accused are not prejudiced by this holding.

g. Improper Nolle Prosequi.

In the announcement of its ruling on the defense motion for a finding of not guilty, the Commission suggested to the prosecution that it enter a nolle prosequi as to Specifications, Noguchi 8e and Shito 3, on the ground that no evidence had been introduced to support these specifications. The prosecution thereupon withdrew these specifications (R. 534). The defense later requested the Commission to make positive findings with respect to these two specifications on the ground that the accused had been arraigned thereon, had stood trial, and after the prosecution had rested, the prosecution had withdrawn or not proessed said specifications without evidencing any authority for so doing (R. 720). After considerable argument the prosecution withdrew its nolle prosequi as to these specifications, and the defense made a motion for a finding of not guilty as to them. The Commission sustained the motion

Restricted

Restricted

(R. 723). Neither the prosecutor nor the Commission on their own motion without authority of the Convening Authority may nol pros a charge or specification, and where the accused has been arraigned upon and has pleaded to the charges, in the absence of a legal withdrawal, he is entitled to a verdict, and the proper course of the Commission is to acquit upon the charge or specification in question. This procedure has been firmly established (Winthrop, p. 192, 193; 16 CJ 434). The prosecution insisted that under the procedure presently followed in trials before Eighth Army Commissions under SCAP rules, the prosecution had authority to withdraw specifications from the Commission at any time before findings are made on the specifications. It stated that this had been done many times in the past (R. 720). When challenged by the defense as to its authority to nol pros, the prosecution was unwilling to state for the record it had such authority (R. 721). Had the prosecution had such authority, either verbal or written from the Convening Authority or SCAP, it should have made an affirmative statement to that effect for the record. In the absence of an affirmative showing of such authority, the entering of the nolle prosequi amounted to a nullity. The action of the Commission in sustaining the defense motion for a finding of not guilty as to these specifications was proper.

h. As to Legal Sufficiency:

Shito

Specifications 1, 2, 4, 5, 6, 7: The evidence is legally sufficient to support the findings.

Specification 8: PW Broughton states the incident occurred in 1942 (Ex. 8) but he must have been mistaken in the year. PW Barlow states the incident occurred in 1943 (Ex. 2) which was probably correct. Shito states he was attached to the Keijo Camp in May 1943 (Ex. 118). The incident is clearly identified by both Broughton and Barlow. The evidence is legally sufficient to support the finding.

Specification 9: The specification of which the accused was found guilty reads, "Between 1 May 1943 and 31 April 1944 . . .". The latter date, "31 April", is obviously a typographical error and "30 April" was intended. No surprise or injustice could have injuriously affected the substantial rights of the accused as a result of this error (19 BR 387; 42 CJS 1249, 1254, 1347). The evidence is legally sufficient to support the finding, substituting the words "30 April" for "31 April".

Ushihara

Specifications 1, 2, 4: The evidence is legally sufficient to support the findings.

Terada

Specifications 1, 2, 5, 6, 7: The evidence is legally sufficient to support the findings.

Specification 3: The evidence does not indicate clearly which of the officers mentioned were British and which were Australian PW's; but it does clearly indicate they were either British or Australian. They were all Allied PW's. The evidence is legally sufficient to support only so much of the finding of guilty of the specification as provides that the PW's against whom the alleged offenses were committed were Allied PW's.

Specification 4: The evidence shows that Ushihara, not Terada, slapped Thompson about the face (Ushihara, 1). The evidence is legally sufficient to support the finding excepting the words, "and by slapping him about the face."

Takuma

Specifications 1, 4, 5, 6: The evidence is legally sufficient to support the findings.

Restricted

Restricted

Specifications 2, 3: The only evidence to support the findings as to these specifications appears in two sentences contained in a report of Lt. Col. Eltrington (Ex. 23). They are hearsay and there is no indication to show the source of the hearsay, or how many times removed it may have been. The "attached papers" containing the evidence given at first hand referred to by Col. Eltrington in his report were not introduced in evidence. The evidence offered is not legally sufficient to establish the guilt of the accused as to these specifications beyond a reasonable doubt.

Mizuguchi

Specifications 1 and 2: The evidence does not fix the exact date of Lt. King's death. It was sometime in May or June 1945 (Ex. 1, 74, 91). Capt. Brundrett's death occurred on 4 July 1945 (Ex. 74). The exact date of the deaths are immaterial. It has been definitely established that the mistreatment and abuse which are alleged to have contributed to or accelerated the deaths occurred during the periods alleged in the specifications. There is ample evidence to show that the accused willfully withheld medicines from King and Brundrett. These were either immediately available or could have been obtained. Both patients were desperately in need of hospitalization, but were denied it. King was allowed to die in the barracks; Brundrett was finally admitted to the hospital after it was too late. Col. Schwartz who was their attending surgeon, and in a position to know their needs better than anyone else, repeatedly requested plasma because he realized it had some food value. Even though there was plasma available on the shelf, he was not permitted to have any until after it was too late to do any good. He was refused an instrument to withdraw the fluid from the peritoneal cavity of Brundrett until a few days before his death. Regardless what the physical condition of King and Brundrett may have been on their arrival at Jinsen from the Philippines, there can be no doubt that the inhumane mistreatment and abuse, the willful withholding of medicines and medical treatment by Mizuguchi, the medical officer to whose care they were entrusted, caused or accelerated their death. One may be responsible for death caused by his or her failure to furnish shelter, food or medical attendance to a helpless infant or adult, where there was a legal duty to furnish same (29 GC 1078, see ftn. 99). The evidence is legally sufficient to support the findings.

Specifications 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13: The evidence is legally sufficient to support the findings.

Specification 14: The specification does not allege the false death certificate was one required or intended for the purposes indicated in Article 4, Geneva (Red Cross) Convention, 27 July 1929, or par. 163 FM 27-10, and in that important respect the act alleged does not constitute a violation of the Laws and Customs of War. However under Articles 2 and 3, Geneva (Prisoner of War) Convention, 27 July 1929, prisoners of war must at all times be humanely treated and protected, particularly against acts of violence, insults and public curiosity; also prisoners of war have the right to have their person and their honor respected (underscoring supplied). In that respect the act alleged does constitute a violation of the Laws and Customs of War. Coercing Col. Beecher, the senior American prisoner of war, to sign a false certificate relating to the death of one of his own officers who he knew had died because of the criminal negligence of the Japanese medical officer is certainly an insult to Col. Beecher's honor and self-respect. The evidence is legally sufficient to support the finding.

Kurokawa

Specification 1: It is believed that the incident described by PW White was the same as related by PW Feerick. Although the reasons given by Feerick and White for the beating are different, there is no doubt that Feerick was beaten by the accused and made to stand at attention in cold weather for a considerable time. The evidence is legally sufficient to support the finding.

Restricted

Restricted

Watanabe

Specification 1 (as amended): The Commission found "That between 1 August 1944 and 18 May 1945, at or near the Konan Prisoner of War Camp, Konan, Korea, the accused, Tokio Watanabe, then physician of said camp did willfully and unlawfully mistreat and abuse Frank Knowles, a British prisoner of war, by withholding from and denying to him adequate and available medicines and medical treatment facilities and supplies furnished him." The underscored words appeared in the amended specification but do not appear in the original specification. The accused was originally charged with committing certain offenses at or near the Civil Hospital as physician in charge of said hospital only. The Commission found the accused not guilty of all words referring to the Civil Hospital and the accused's connection therewith. The variance is fatal and the finding of guilty should be disapproved in its entirety. (See par. 4f).

Specification 3 (as amended): The Commission found: "That between 15 September 1943 and 31 August 1945 at or near Konan Prisoner of War Camp, Konan, Korea, and at or near the Nippon Chisso Hiryo Company, Konan, Korea, the accused, Tokio Watanabe, then physician of said camp, did willfully and unlawfully mistreat numerous Allied prisoners of war by withholding from and denying to them adequate and available medicines and medical treatment and by otherwise abusing them." The underscored words appeared in the amended specification, but do not appear in the original specification. The accused was originally charged with committing certain offenses at or near the Nippon Carbide Company in his capacity of head physician of said Company. It alleged the mistreatment by the accused of PW's at the Carbide Company only, not their mistreatment in camp. The finding of guilty of the words "at or near the Konan Prisoner of War Camp" and added in the amended specification should be disapproved. Amending the original specification by substituting the words Nippon Chisso Hiryo Company for the words Nippon Carbide Company pertains to a matter of form, not to the substance. There was only one company at Konan where PW's worked and that was known by various names including both of the above (R. 143, 149, 249, 294, 369; Ex. 30, 115, 122, 130). The accused was not misled by amendment in that respect. The amendment of the original specification substituting the words "physician of said Konan Camp" for the words, head physician of said Company, pertains to a matter of form also. The physician of the Konan Camp was also a physician of the Company and was responsible for the medical care of the PW's in the camp and while they were working at the Company (Ex. 95, 122, 131). The accused is sufficiently identified in the charge as "civilian doctor serving with the Japanese Army", and any further description of him in the specification may be regarded as surplusage. The accused was not misled by his description in the amended specification. The charge should be approved and only so much of the Specification 3 as provides "That between 15 September 1943 and 31 August 1945, at or near the Nippon Chisso Hiryo Company; the accused, Tokio Watanabe, then physician of the Konan Prisoner of War Camp, did willfully and unlawfully mistreat numerous Allied prisoners of war by withholding from and denying them adequate and available medicines and medical treatment and by otherwise abusing them" should be approved. The evidence is legally sufficient to sustain the finding of guilty of the charge and the specification as thus modified. (See par. 4f).

Okazaki

Specification 1: Under the doctrine of command responsibility, the Commission held Okazaki criminally liable for the unlawful acts of his subordinates. Article 1, Annex to the Fourth Hague Convention lays down the condition which an armed force must fulfill in order to be accorded the rights of lawful belligerents; that it must be "commanded by a person responsible for his subordinates" (Sec. 15, Application Yamashita, 66 S. Ct. 340). This imposes on the commander an affirmative duty to take such measures as are within his power to protect the prisoners of war entrusted to his care from violations of the law of war. This duty is a legal one and an omission to perform it without legal excuse, resulting in injury, renders him penally liable (Sec. 16, Application Yamashita, 66 S. Ct. 340). This duty requires him to control and restrain members of his command from committing such atrocities as inflicting corporal punishment upon, mistreating, and otherwise abusing the prisoners of war (Sec. 17, 18, Application Yamashita, 66 S. Ct. 340).

Restricted

Restricted

The evidence indicates that when Okazaki assumed command of the Jinsen Camp in 1942, he knew that PW's had previously been mistreated. At that time he gave Major Holohan, the senior British PW, an assurance that officers at least would not be hit. Later when he was brutally beaten by Mizuguchi, Okazaki sent him an apology and assured him such incidents would not happen again. However mistreatment of PW's continued during the entire time he was in command. Some violations were committed in his presence. He witnessed the beating of a PW by Lt. Torisu and Mizuguchi's intimidation of Col. Beecher to sign a false death certificate in the case of Lt. King. Numerous reports and complaints were made to him or his staff. Often PW's dared not report their mistreatment for fear of reprisals. The camp was not large and Okazaki could easily supervise it. By his own statement he admitted he had a duty to inquire if PW's were being mistreated. If by design, or through negligence, he abstained from making inquiry, he is nevertheless charged with knowledge of the violations. The atrocities were not sporadic in nature, but were almost daily occurrences. Exercise of due diligence would unmistakably have led to knowledge of the true conditions in the camp. He had actual or constructive knowledge of the widespread mistreatment of PW's yet failed to take adequate preventive measures. His failure to do so was either willful or due to gross negligence. "The probable and foreseeable consequences of his failure to adopt adequate and preventive measures was the continued occurrence of such mistreatment and under the law such failure to act was a proximate cause of each act of unlawful mistreatment thereafter occurring, for which the commander would be criminally liable (45 CJ 911, 1913, 68 ALR 1013; Dunn, Protection of Nationals 546; cited in U. S. vs. Oota et al, Case No. 129). The evidence is legally sufficient to support the findings as to the specification and subspecifications except as indicated below.

Specification 1m: The offenses alleged are included in the broader offenses alleged in Specification 1p of which the accused was found guilty. The evidence is legally sufficient to support the findings as to Specification 1p and these findings should be approved. The findings as to this specification, being merged in the findings of Specification 1p, should be disapproved.

Uchida

Specifications 3 and 9: These specifications are identical and refer to the Jinsen and Konan Camps respectively. The accused is here charged with failing to discharge his duties as a staff officer by neglecting to (1) inspect, (2) supervise, (3) advise and report to his commander the unlawful mistreatment of numerous PW's by denying them adequate and available medicines and medical treatment and forcing sick PW's to work. Assuming that the duties of a staff officer in the Japanese Army are similar to those in the U. S. Army, Noguchi, as commander of all Korean PW Camps, was responsible for the health of PW's entrusted to his care. Uchida, as a staff officer, was adviser to Noguchi on all matters pertaining to health and sanitation of the PW camps. Within the limits and in the manner prescribed by Noguchi he was required to make medical inspections and to supervise the operation of elements of the medical service at the Jinsen and Konan Camps. It was his duty to bring to Noguchi's attention matters which required his action or about which he should be informed. Within the scope of his authority it was his duty to supervise the execution of Noguchi's orders and to take such other action as was necessary to carry out Noguchi's intentions (Staff Officers, FM 101-5, U. S. Army). The prosecution has the burden of establishing beyond a reasonable doubt all the elements of the offenses charged. It introduced no evidence to show that Uchida neglected to inspect the camp hospitals, medical facilities and supplies and neglected to supervise the duties and conduct of Japanese medical personnel at these camps within the limits and in the manner prescribed by Noguchi. Article 15, Geneva Convention, 27 July 1929, requires a medical inspection of PW's shall be made at least once a month. Subject to the limitations of this Article and orders he may have received from higher headquarters, matters pertaining to how often Uchida should make his inspections, the scope of these inspections, and the nature and amount of supervision Uchida was to exercise, were all decisions for Noguchi, not Uchida. It must be remembered that Uchida was not a "free lance". As medical officer of the Keijo Camp, he had a direct responsibility for the health of personnel of that camp; he could not shift that responsibility and of his own accord go out and inspect and supervise other camps at will while

Restricted

Restricted

neglecting his own. Noguchi knew there were doctors on duty at the other camps. If he chose to rely on the medical officer and commanding officers at these camps for the medical service there and directed that only limited or superficial inspections be made by Uchida, he, alone, should be held responsible for that decision and the consequences thereof. The prosecution must show that Uchida neglected to carry out Noguchi's orders or abused the discretion granted him by Noguchi. There is considerable evidence to show that Uchida did make inspections, supervised and made reports as directed by Noguchi (Ex. 112; R. 363, 576, 597, 598). This is probably the reason the Commission found Uchida not guilty of Specifications 1 and 2 but found Noguchi guilty of Specification 7a and 7b (Noguchi), their counterparts. For this reason Uchida should also be found not guilty of Specifications 3 and 9. An allegation of failing to report to Noguchi the mistreatment or abuse of numerous Allied PW's by members of the medical staffs at Jinsen and Konan cannot be sustained in the absence of proof that Uchida had actual knowledge thereof. The prosecution has not shown that Uchida did not report any mistreatment of PW's by medical personnel of which he had actual knowledge. The evidence is legally insufficient to support the findings as to these two specifications.

Specification 6: Here Uchida is charged as medical officer of the Keijo Camp, and not as medical staff officer. As medical officer he was directly responsible to Noguchi for the treatment of sick PW's and for the conduct of persons under his supervision and control at the Keijo PW Camp. The evidence is legally sufficient to support the finding.

Specification 11: The evidence shows that Uchida was not responsible for the medical treatment of PW's at Seidaimon. When a PW was confined in prison, the responsibility for his health became that of the prison warden. The Commission showed it was of this opinion in acquitting the accused of Specifications 12, 13, 14 and acquitting Noguchi of Specifications 6b, 6c, 6d, their counterparts. The finding of guilty of the words "and at or near the Seidaimon Civil Prison" cannot be sustained. The Commission found the accused not guilty of "refusing and neglecting to supply him with adequate and available medicines and medical treatment" and substituted the words "refusing to continue available medical treatment, thereby contributing to conditions deleterious to his health." Refusal is an omission to comply with some requirement of law as the result of a positive intention to disobey (Black, Law Dictionary). There is no evidence that Uchida refused or neglected or failed to continue the treatment of Pigott at the Keijo Camp. Uchida had a duty to furnish, and did furnish, Pigott available medical treatment as long as the latter was in camp. That duty ceased when Pigott was transferred to prison by competent orders of the Chosen Legal Section. One cannot be found guilty of refusing neglecting or failing to continue a duty which has been terminated. Uchida may have been guilty of willfully and unlawfully making a false diagnosis of Pigott's condition thereby causing his transfer to prison, but that is an entirely different offense not included in the offense of which he was found guilty. That act does not constitute a refusal neglect or failure to continue medical treatment. The findings recite non-feasance; the evidence indicates malfeasance on the part of Uchida. The evidence is not legally sufficient to support the findings.

Noguchi

Specification 5: See first paragraph, Okazaki 1, re doctrine of command responsibility (p 70) and "Notice to Noguchi re Mistreatment of PW's at Keijo" (p 50-52).

The evidence clearly indicates that Noguchi had actual or constructive knowledge of the widespread mistreatment of PW's in his own small camp, yet failed to take adequate preventive measures. The probable and foreseeable consequences of his failure to do so was the continued occurrence of such mistreatment and such failure to act was a proximate cause of each act of unlawful mistreatment thereafter, for which he must be held criminally liable (U. S. vs. Oota et al, Case No. 129).

The evidence is legally sufficient to support the findings of guilty of the specification and all subspecifications except as indicated.

Specification 5f: The evidence is legally sufficient to support only so much of the finding of guilty as provides that the PW's were Allied PW's. (See Ter-er, 3).

Restricted

Restricted

Specifications 5k, 5l: The evidence is not legally sufficient to establish the guilt of the accused as to these specifications beyond a reasonable doubt (See Takuma, 2, 3).

Specifications 6 and 6a: The evidence is not legally sufficient to support the findings (See Uchida, 11).

Specification 7: See first paragraph, Okazaki 1, re doctrine command responsibility (p 70) and "Notice to Noguchi and Okazaki re Mistreatment of PW's at Jinsen" (p 53-55).

The evidence clearly indicates that Noguchi had actual or constructive knowledge of the widespread mistreatment of PW's in the Keijo Camp of which he was in direct command (Noguchi, 5). The accused was thereby put on notice that similar violations may be occurring in other camps under his command. A duty was thus imposed upon him to make inquiry. The exercise of due diligence would have led him to knowledge that there was also widespread mistreatment of PW's in the Jinsen and Konan Camps. If this were not so, then his ignorance was the result of such gross and culpable negligence that he would be equally bound. Failure to make such inquiry would constitute a negligent omission. If he designedly abstained from the inquiry for purpose of avoiding notice, notice is imputed to him (46 CJ 544). If the inquiries were superficial only and not made in good faith, notice is likewise imputed to him. The evidence shows that all of Noguchi's inspections at Jinsen and Konan were superficial. They were announced in advance and "dressed up" for the occasion. They failed to present a true picture of conditions existing in these camps. Had Noguchi been desirous of finding out how the PW's were faring, it would have been a simple matter to get the information. He could, for instance, have made unannounced inspections; he could have conducted confidential personal interviews with the senior PW and other PW's where they could be assured they were free to speak without fear of being beaten; he could have required camp commanders to submit accurate detailed reports pertaining to treatment, health and welfare of PW's. Under the law he is charged with knowledge, and his failure to take adequate preventive measures makes him criminally liable. Noguchi by his own statement recognized his responsibility.

The evidence is legally sufficient to support the findings of guilty of the specification and all subspecifications except as indicated below.

Specification 7g: The offenses alleged are included in the broader offenses alleged in Specification 7r, of which the accused was found guilty. The evidence is legally sufficient to support the findings as to Specification 7r, and these findings should be approved. The findings as to this specification, being merged in the findings of Specification 7r, should be disapproved.

Specification 8: See first paragraph, Okazaki 1, re doctrine command responsibility (p 70) and "Notice to Noguchi re Mistreatment PW's at Konan" (p 57-58). See also second paragraph, Specification 7, this page.

The evidence is legally sufficient to support the findings of guilty of this specification and all subspecifications.

Specification 9 (substituted for Specification 8a): See first paragraph Specification 8, this page.

All elements of the offense of which the Commission found the accused guilty are contained in the original Specification 8a, except the words, "Tokio Watanabe and". The addition of these words appearing in Specification 9 is an amendment which pertains to the substance, not to form. The addition of these words is therefore illegal (See par. 4f). This specification, with the words, "Tokio Watanabe", added, is also defective in that it does not allege that Tokio Watanabe was a member of the Konan Prisoner of War Camp or a person under Noguchi's command. Excepting these words, however, does not mean the evidence against Watanabe may not be considered in support of this specification with these words omitted. Watanabe, as camp doctor, is included in the "personnel of the Konan Prisoner of War Camp". Evidence concerning his acts in his capacity of camp doctor is relevant and competent. The evidence is legally sufficient to support the findings excepting the words, "Tokio Watanabe and".

Ariizumi

Specifications 1 and 2: The evidence indicates guards were assigned to assist Ariizumi. They acted on his orders. They beat or kicked the PW's in his presence. The evidence is legally sufficient to support the findings.

Restricted

Restricted

i. The advisory counsel zealously defended the rights of the accused, even to the point of impliedly being censured by the President of the Commission "for taking liberties bordering upon the ridiculous and in turn verging on contumacy" (R. 572). Counsel's efforts in behalf of the accused showed marked professional ability and a high sense of appreciation of his duty to the accused. These remarks of censure by the President, if intended to apply to advisory counsel, were unwarranted in this instance and are not in accord with the expressed policy of the Convening Authority to assure to every accused a fair and impartial trial. However the remarks appeared in no way to discourage counsel in the performance of his assigned mission as he continued throughout the trial to vigorously safeguard the interests of the accused. Their rights were not prejudiced by the remarks. The accused were also represented by individual Japanese counsel. The accused were familiar with their rights. They cooperated fully in their defense. Two of the accused elected to testify, the others to remain silent. All were given opportunity to present witnesses in their own behalf. There is no evidence that any of the accused were insane or otherwise incompetent at the time of trial or at the time of the commission of the alleged offenses. Insanity was not an issue.

j. The Commission was legally constituted. The sentences were authorized for violations of the laws of war. The Commission had jurisdiction of the persons and the offenses. No errors injuriously affecting the substantial rights of the accused were committed during the trial which cannot be cured by the procedure recommended herein. The record of trial is legally sufficient to support the modified findings as recommended herein and the sentences imposed by the Commission.

5. Recommendations:

SHITO

a. Findings

(1) The findings of guilty of all specifications and the charge should be approved except as indicated below.

(2) Only so much of the finding of guilty of Specification 6 as provides that the accused did at the time and place alleged commit the offenses alleged therein, not included in Specifications 1, 2, 4 and 5, should be approved.

(3) Only so much of the finding of guilty of Specification 9 as provides that the accused did between 1 May 1943 and 30 April 1944 at the place alleged commit the offenses alleged therein, not included in Specifications 7 and 8, should be approved.

b. Clemency. No petitions for clemency were filed.

c. Sentence. The brutal beatings and other abuses inflicted by the accused upon his helpless prisoners reveal his demoniacal nature. For the offenses for which he is to be sentenced justice demands that he be severely punished. The Commission imposed a sentence of confinement at hard labor for thirty-three years. It is believed that a sentence of twenty-five years is adequate and it is recommended that so much of the sentence be approved. In accordance with the established policy, owing to the length of time the accused spent in confinement prior to date of sentence, it is recommended that one year and eight months of the sentence be remitted.

USHIHARA

a. Findings. The findings of guilty of all specifications and the charge should be approved.

b. Clemency. No petitions for clemency were filed.

(p 74 of 81, Noguchi Case #181)

Restricted

Restricted

c. Sentence. The accused was a graduate of the University of California and had excellent command of the English language. As interpreter and medical orderly, it was his duty to present the ailments of sick prisoners of war to the Japanese medical officer. At times he deliberately misrepresented their needs or dismissed their complaints without referring them to the medical officer. He took great delight in mistreating the sick, making free use of his fists to inflict blows upon their faces. The sentence of confinement at hard labor for ten years imposed by the Commission is hardly adequate for the crimes for which he was convicted. However it is recommended it be approved, and in accordance with the established policy, owing to the length of time spent in confinement prior to date of sentence, it is recommended that one year and nine months of the sentence be remitted.

TERADA

a. Findings.

(1) The findings of all specifications and the charge should be approved except as indicated below.

(2) Only so much of the finding of guilty of Specification 3 as provides that the accused did at the time and place alleged willfully and unlawfully mistreat and abuse Lt. Col. Hereward D. Cardew, Lt. Col. Raymond C. Woodbridge, Capt. Ralph B. Prince, Lt. Stewart E. Bell, Capt. Wilfred D. Fawcett, Lt. John Turner and Lt. P. F. Fuller, and other Allied prisoners of war by striking them, should be approved.

(3) Only so much of the finding of guilty of Specification 4 as provides that at the time and place alleged the accused with another did willfully and unlawfully mistreat and abuse Pvt. Matthew Thompson, a British PW, by striking him with a heavy roll of paper, should be approved.

(4) Only so much of the finding of guilty of Specification 7 as provides that the accused did at the time and place alleged commit the offenses alleged therein, not included in Specifications 1 to 6 inclusive, should be approved.

b. Clemency. No petitions for clemency were filed.

c. Sentence. The accused brutally assaulted prisoners of war for no apparent reason, and when he was orderly officer he incited the guards to do likewise. He summarily dealt with cases he should have reported and delayed or suppressed PW requests and reports to the camp commander. He was cruel and contemptible and exulted in his arrogant power, thereby causing the prisoners of war untold suffering. The sentence of confinement at hard labor for thirty-seven years is not excessive for the crimes of which he was convicted and it is recommended it be approved. In accordance with the established policy, owing to the length of time the accused spent in confinement prior to date of sentence, it is recommended that one year and eight months of the sentence be remitted.

TAKUMA

a. Findings.

(1) The findings of all specifications and the charge should be approved except as indicated below.

(2) The findings of Specifications 2 and 3 should be disapproved.

(3) Only so much of the finding of guilty of Specification 6 as provides that the accused did at the time and place alleged commit the offense alleged therein, not included in Specifications 1 to 5 inclusive, should be approved.

b. Clemency. No petitions for clemency were filed.

(p 75 of 81, Noguchi Case #181)

Restricted

Restricted

c. Sentence. The accused on numerous occasions lost his temper and beat up prisoners of war regardless of rank. The bloody beating he inflicted upon PW McKenzie with an improvised soup ladle, made of a piece of wood with an empty meat can nailed at the end with the pointed ends of nails protruding, showed his vicious nature. The Commission sentenced the accused to confinement at hard labor for thirty-one years. It is believed that a sentence of confinement at hard labor for a period of twenty-five years would be adequate punishment, and it is recommended that so much of the sentence be approved. In accordance with the established policy, owing to the length of time the accused spent in confinement prior to date of sentence, it is recommended that one year and eight months of the sentence be remitted.

MIZUGUCHI

a. Findings.

(1) The findings of all specifications and the charge should be approved except as indicated below.

(2) Only so much of the finding of guilty of Specification 13 as provides that the accused did at the time and place alleged commit the offenses alleged therein, not included in Specifications 1 to 12 inclusive and Specification 14, should be approved.

b. Motion for Modification of Sentence. The defense filed a motion for the disapproval of the findings and a modification of the sentence as to Mizuguchi. Several of the objections raised have been discussed in this review. Other objections raised in the motion are not of sufficient consequence to prejudice the rights of the accused. It is recommended that, except as indicated in the preceding paragraph a (2), the defense motion be denied.

c. Clemency. Many petitions for clemency were submitted to the Reviewing Authority by relatives, friends and former associates of the accused which related the activities of the accused before his entrance into the service. They emphasized his Christianlike benevolence in volunteering at the risk of his life to serve in a leper colony in Korea on his graduation from medical school when he turned down numerous offers for good positions. Of the five thousand lepers in the colony, he cured several and lent aid and comfort to the others. The petitions stressed the accused was an accomplished musician, the personification of fair play and sportsmanship in athletics, and a person of his character could not have been guilty of the inhumane acts of which he was convicted. The petitioners requested that his life be spared. The petitions have been carefully considered but reveal no moral excuse or mitigating circumstances for the numerous brutal atrocities committed by him.

d. Sentence. The actions of the accused show that during his tenure as medical officer of the camp, he was not imbued with any such Christianlike spirit petitioners have indicated; on the contrary they unmistakably reveal the antithesis thereof. For his diabolical conduct in brutally beating many PW's and in deliberately refusing sick helpless prisoners of war entrusted to his care vital medicines and medical treatment thereby causing their untimely death, he should be removed from the society of decent men. It is recommended that the sentence by hanging be approved, but the execution thereof be withheld pending the action of the Supreme Commander for the Allied Powers.

KUROKAWA

a. Findings. The findings of Specification 1 and the charge should be approved.

b. Clemency. No petitions for clemency were filed.

c. Sentence. The Commission sentenced the accused to confinement at hard labor for two years. It is recommended the sentence be approved. In accordance with the established policy, owing to the length of time spent in confinement prior to date of trial, it is recommended that the unserved portion of the confinement at hard labor be remitted.

Restricted

*Restricted*a. Findings.

(1) The finding of Specification 1 (as amended) should be disapproved.

(2) Only so much of the finding of guilty of Specification 3 (as amended) as provides that between 15 September 1943 and 31 August 1945, at or near the Nippon Chisso Hiryo Company, the accused, Tokio Watanabe, then physician of the Konan Prisoner of War Camp, did willfully and unlawfully mistreat numerous Allied prisoners of war by withholding from and denying them adequate and available medicines and medical treatment and by otherwise abusing them, should be approved.

(3) The finding of the charge should be approved.

b. Clemency. Many petitions of clemency were submitted to the Reviewing Authority by relatives, friends, and former associates of the accused. They have been carefully considered. They point out that during the war prisoners of war suffered from the shortage of medicines, a situation over which the accused had no control. They stated that after he had been repatriated from Korea, the accused had taken a position as doctor in one of the villages of Okayama Prefecture, where his services were greatly needed. A petition signed by several hundred of the villagers requested his early return to his practice.

c. Sentence. The accused was a civilian doctor employed at one of the branch hospitals of the Carbide Company in Konan. He was detailed by the superintendent of the main hospital of the Company as camp doctor at the request of POW Headquarters in addition to his other duties. Because of his duties at the civil hospital he was able to visit the camp only every other day for a couple of hours. Much of the medical service at the camp was left to the enlisted medical personnel there on duty. Capt. Morris, the PW doctor in camp, was well qualified to administer to the needs of the PW's, but he was not allowed to do so by Capt. Otaki, the camp commander. When Capt. Morris remonstrated with Otaki about the bad methods of treatment employed by the Japanese medical sergeant major and his repeated sending sick PW's to work, he was ordered to hand over care of the sick to the Japanese sergeant major and was banished from the hospital. Capt. Otaki refused to permit Capt. Morris to write to either Keijo or the Red Cross for needed medicines. There was no doubt that Watanabe knew that working conditions at the furnaces were dangerous, but it was not within his power to change them. It is clear that Otaki was the dominating power in the camp and insisted in imposing his will upon his subordinates. He laid down the policies pertaining to PW's. He controlled and directed the activities of Watanabe and the personnel of the hospital. Watanabe was a weak character who either through fear or indifference chose the course of least resistance and followed the pattern set up by his commander. He was willing to sacrifice professional ethics and betray the trust imposed upon him by law to protect the PW's, rather than incur the wrath of his commander. For his actions he is criminally liable. The Commission sentenced the accused to confinement at hard labor for twelve years. For the offenses for which he is to be sentenced, it is believed confinement at hard labor for eight years is adequate, and it is recommended that so much of the sentence be approved. In accordance with the established policy, owing to the length of time the accused spent in confinement prior to date of sentence, it is recommended that two and one-half months of the sentence be remitted.

OKAZAKI

a. Findings.

(1) The findings of guilty of the specification, all subspecifications and the charge should be approved except as indicated below.

(2) The finding of Subspecification 1m should be disapproved.

(p 77 of 81, Noguchi Case #181)

Restricted

Restricted

(3) Only so much of the finding of guilty of Subspecification 1p as provides that the accused did, at the time and place alleged, commit the offenses alleged therein, not included in other subspecifications of Specification 1, should be approved.

b. Clemency. A petition for clemency was submitted to the Reviewing Authority by one Itaro Matsumoto, who stated that he well knew Okazaki's character and activities during his stay at Jinsen, and that many people stated that during the war Okazaki was over kind to PW's. The petition was carefully considered.

c. Sentence. The accused was found guilty of disregarding and failing to discharge the duties imposed upon him under the doctrine of command responsibility contained in Article 1, Annex to Fourth Hague Convention of 1907. For the unlawful omission of this duty, justice demands that the accused be punished. The Commission sentenced the accused to confinement at hard labor for twenty years. The sentence is appropriate and it is recommended that it be approved. In accordance with the established policy, owing to the length of time the accused spent in confinement prior to date of sentence, it is recommended that one year and nine months of the sentence be remitted.

UCHIDA

a. Findings.

(1) The findings of Specification 6 and the charge should be approved.

(2) The findings of Specifications 3, 9 and 11 should be disapproved.

b. Clemency. No petitions for clemency were filed.

c. Sentence. The evidence shows that the accused, as medical officer of the Keijo Camp, mistreated and abused numerous sick PW's by withholding and denying them adequate and available medicines and medical treatment and by permitting persons under his supervision and control to beat sick PW's and send them to work when physically unfit. For these violations of the laws of war, justice demands that the accused be punished. The Commission sentenced the accused to confinement at hard labor for seventeen years. In view of the fact that it has been recommended that the findings as to Specifications 3, 9 and 11 be disapproved, it is recommended that only so much of the sentence as provides for confinement at hard labor for twelve years be approved. In accordance with the established policy, owing to the length of time the accused spent in confinement prior to date of sentence, it is recommended that one year and eight months of the sentence be remitted.

NOGUCHI

a. Findings.

(1) The findings of guilty of all specifications, subspecifications and the charge should be approved except as indicated below.

(2) Only so much of the finding of guilty of Subspecification 5f as provides that the prisoners of war against whom the alleged offenses were committed were Allied prisoners of war, should be approved.

(3) The findings of Subspecifications 5k and 5l should be disapproved.

(4) Only so much of the findings of guilty of Subspecifications 5x and 5y as provides that the accused did, at the times and places alleged, commit the offenses alleged therein, not included in other subspecifications of Specification 5, should be approved.

Restricted

Restricted

(5) The finding of Subspecification 6a should be disapproved.

(6) The finding of Subspecification 7q should be disapproved.

(7) Only so much of the finding of guilty of Subspecification 7r as provides that the accused did, at the time and place alleged, commit the offenses alleged therein, not included in other subspecifications of Specification 7, should be approved.

(8) Only so much of the finding of guilty of Subspecification 8i as provides that the accused did, at the time and place alleged, commit the offenses alleged therein, not included in other subspecifications of Specification 8, should be approved.

(9) Only so much of the finding of guilty of Specification 9 as provides that the accused did, at the time and place alleged, unlawfully disregard and fail to discharge his duties as Commander of all Korea Prisoner of War Camps by permitting personnel of the Konan Prisoner of War Camp to unlawfully mistreat Private Frank Knowles, a British Prisoner of War, by withholding from and denying to him adequate and available medicines and medical treatment, should be approved.

b. Clemency. No petitions of clemency were filed.

c. Sentence. The accused was found guilty of disregarding and failing to discharge the duties imposed upon him under the doctrine of command responsibility contained in Article 1, Annex to the Fourth Hague Convention of 1907. For the unlawful omission of this duty, justice demands that the accused be punished. The Commission sentenced the accused to confinement at hard labor for twenty-two years. It is believed that the degree of culpability of Noguchi and Okazaki were on a par. sentence of twenty years has been recommended in the case of Okazaki and for that reason, it is recommended that only so much of the sentence of Noguchi as provides for confinement at hard labor for the same period be approved. In accordance with the established policy, owing to the length of time the accused spent in confinement prior to date of sentence, it is recommended that one year and eight months of the sentence be remitted.

ARIIZUMI

a. Findings. The findings of Specifications 1 and 2 and the charge should be approved.

b. Clemency. No petitions for clemency were filed.

c. Sentence. The Commission sentenced the accused to confinement at hard labor for one year. It is recommended the sentence be approved and in accordance with the established policy, owing to the length of time the accused spent in confinement prior to date of sentence, it is recommended that the unserved portion of the confinement at hard labor be remitted.

6. Action:

Attached hereto are forms of action designed to carry into effect the above recommendations.

F. R. UNDRITZ
Lt. Col. Inf.
Asst. Staff Judge Advocate

Restricted

I concur in the foregoing review except as hereafter noted.

Amending the substance of charges and specifications during a trial is not good practice but is not necessarily prejudicial to the accused. The outstanding and determining question must always be whether the rights of the accused are prejudiced by the amendment. This may occur by failure to accord additional rights of challenge where grounds appear, denial of reasonable time for preparation of a defense against the new charges, neglecting to re-swear the Commission and other such failures. Nothing appears in the instant case to indicate that any of the accused was deprived of a substantial right by virtue of the allowance of the amendments, except that of having the Commission re-sworn. Because of that failure, the action of the Commission may be considered as prejudicial to the accused under the facts in this case. Only so much of the findings of guilty of the amended specifications and the substituted specification as is contained in the original specifications should be approved.

As to specifications 2 and 3, Takuma, the proof supplied by the unqualified assertion of a responsible Lieutenant Colonel of the British Forces which was in no way satisfactorily refuted, effectively carries the burden of establishing the facts beyond a reasonable doubt (Exhibit 23). The findings of guilty in those instances should be approved. These remarks apply equally to specifications 5k and 1, Noguchi.

It is felt that no criticism of the Commission is merited by reason of the remarks of the president at page 572 of the record, when he called attention to the unnecessary amount of obstruction to the progress of the case on the part of counsel. The dividing line between justifiable argument and mere bickering was crossed by counsel for both sides several times.

As to the individual sentences, the following should be noted:

NOGUCHI. Proper conviction of the allegations in 43 specifications including two deaths justifies a sentence of at least 22 years confinement at hard labor. It is observed that this accused was convicted of many more offenses than was Okazaki. The sentence of 22 years confinement should be approved.

TERADA. Specification 3 involves physical violence against several allied officers. A sentence of 5 years is appropriate. Specification 6 involves multiple misappropriations of vitally needed supplies which were sent by the Red Cross for use of the prisoners. Five years confinement for conviction of this specification is justified. Specification 7 involves multiple atrocious beatings and other abuses including some of great severity. A sentence of 15 years for conviction of the charges in this specification is not excessive. For conviction of the allegations in each of the other four specifications, a sentence of two years in each case is indicated, totaling 8 years. The appropriate total sentence for Terada, therefore, is considered to be 33 years instead of 37 years. Reduction to 33 years confinement at hard labor is recommended.

TAKUMA. This accused used a ladle with nails exposed to administer at least one beating. Specification 1 includes at least 21 vicious beatings under the instructions of this accused. Two men were rendered unconscious and the beating of one was continued thereafter. A total sentence of 31 years is not excessive, having in mind sentences adjudged by commissions over a long period in cases involving similar facts.

WATANABE. The specification for which approval is recommended as to this accused involves multiple abuses by civilian doctor directed against the very people whose health he was trained and employed to safeguard. As camp doctor at Konan Camp he ordered many sick prisoners to the hardest kind of work. His nick name ("You're OK for work") indicates his reputation for this abuse among the prisoners. A sentence of 12 years for these multiple mistreatments under specification 3 is conscionable and should be approved.

Restricted

Restricted

ARTIZUMI. The offense of permitting beating of prisoners in order to secure information from them, especially by a legal officer as in this case can not be condoned and under the facts in evidence justifies a sentence greatly in excess of the one year adjudged.

Approval of the sentences of other accused is recommended in accordance with the statements of the Reviewer.

The expression from the sister of Mizuguchi (sentenced to death), included in her petition for clemency, is gratifying in view of the strenuous efforts made by the Supreme Commander of the Allied Powers and the Commanding General, Eighth Army to afford the accused every opportunity to present their defense in court: "We Japanese have deep respect for and bear no resentment against the fair trials conducted according to justice and humanity."

ALLAN R. BROWNE
Lt. Colonel, JAGD
Army Judge Advocate

AB

Restricted